

# THE CITY OF SOUTH EUCLID SCHEDULE OF MEETING

November 12, 2012

8:00 PM

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**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**3. RECOGNITION CEREMONY:**

1. RESOLUTION 62-12                      IN APPRECIATION TO AND RECOGNITION OF FIRE INSPECTOR JAMES DAVIS FOR HIS OUTSTANDING SERVICE TO THE SOUTH EUCLID FIRE DEPARTMENT AND THE RESIDENTS OF THE CITY OF SOUTH EUCLID. FIRST READING.

**5. OPEN MEETING**

**6. REPORT OF COMMITTEES**

COMMITTEE OF THE WHOLE

1. RESOLUTION 61-12                      A RESOLUTION AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "GENERAL FUND #101-LAW DEPARTMENT-CONTRACTUAL SERVICES-OUTSIDE LEGAL EXPENSES." **SECOND READING.**

**7. MAYOR'S REPORT**

**8. LEGISLATION REQUESTED BY THE MAYOR AND ADMINISTRATION**

1. RESOLUTION 70-12                      AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO EPA TO ACCEPT A 2012 SURFACE WATER IMPROVEMENT FUND (SWIF) GRANT FOR CUYAHOGA COUNTY COMMUNITIES AND AUTHORIZING THE CITY ENGINEER TO PREPARE THE NECESSARY PLANS, SPECIFICATIONS, AND ADVERTISE FOR BIDS FOR THE SOUTH EUCLID MUNICIPAL COMPLEX STORMWATER DEMONSTRATION PROJECT IN THE CITY OF SOUTH EUCLID, OHIO. FIRST READING.
2. RESOLUTION 71-12                      A RESOLUTION AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "GENERAL IMPROVEMENT & REPAIR #408." FIRST READING.
3. RESOLUTION 72-12                      AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "GENERAL FUND #101-LAW DEPARTMENT-CODIFICATION AND LEGAL ADVERTISING. FIRST READING.
4. RESOLUTION 73-12                      AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "FLOOD CONTROL FUND #426-CONTRACTUAL SERVICES." FIRST READING.
5. RESOLUTION 74-12                      AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "CITY COUNCIL-OPERATING SUPPLIES." FIRST READING.

6. ORDINANCE 35-12 APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH; AND DECLARING AN EMERGENCY. FIRST READING.
7. ORDINANCE 36-12 AN ORDINANCE AMENDING SECTION 147.01 "DESIGNATING PARKING INFRACTIONS, ESTABLISHING VIOLATIONS BUREAU" OF CHAPTER 147 "PARKING GENERALLY" OF TITLE FIVE "ADMINISTRATIVE" OF PART ONE "ADMINISTRATIVE CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. FIRST READING.
8. ORDINANCE 37-12 TO PROVIDE FOR THE ISSUANCE AND SALE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS IN AN AMOUNT OF \$1,800,000 FOR THE PURPOSE OF ACQUIRING, CLEARING, AND OTHERWISE IMPROVING THAT CERTAIN REAL ESTATE AND THE BUILDINGS THEREON AS DESCRIBED IN ORDINANCE NO. 81-06 PASSED BY THE COUNCIL ON NOVEMBER 13, 2006 AUTHORIZING THE PURCHASE THEREOF PURSUANT TO ARTICLE VIII, SECTION 16 OF THE OHIO CONSTITUTION AND PAYING COSTS OF ISSUANCE; AND DECLARING AN EMERGENCY. FIRST READING.

**9. LAW DIRECTOR'S REPORT**

**10. LETTERS AND COMMUNICATIONS**

**11. ADJOURN**

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 61-12  
INTRODUCED BY: Miller  
REQUESTED BY: Mayor

September 24, 2012  
Second Reading: November 12, 2012

A RESOLUTION

A RESOLUTION AUTHORIZING THE APPROPRIATION OF  
UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND:  
"GENERAL FUND #101-LAW DEPARTMENT-CONTRACTUAL  
SERVICES-OUTSIDE LEGAL EXPENSES."

WHEREAS, funds must be appropriated to pay for outside legal expenditures.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "General Fund #101-Law Department-Contractual Services-Outside Legal Expenses" in the amount of \$61,727.35.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents and for the further reason that a vital function of government is affected thereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
David B. Miller, President of Council

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO: 62-12  
INTRODUCED BY: Miller  
REQUESTED BY: Mayor

October 9, 2012  
Tabled Until: November 12, 2012

A RESOLUTION

IN APPRECIATION TO AND RECOGNITION OF FIRE INSPECTOR JAMES DAVIS FOR HIS OUTSTANDING SERVICE TO THE SOUTH EUCLID FIRE DEPARTMENT AND THE RESIDENTS OF THE CITY OF SOUTH EUCLID.

WHEREAS, James Davis served the City of South Euclid as a Firefighter and Paramedic since his appointment on March 25, 1979 and was in the very first class of Paramedics to begin providing Paramedic service to our community; and

WHEREAS, in recognition of his leadership and professionalism, James Davis was appointed to the Fire Prevention Office as Fire Inspector in October of 1996; and

WHEREAS, he has completed numerous Fire Prevention Management and Arson Investigation programs at the National Fire Academy; and

WHEREAS, he is over a 20 year member of the North Eastern Fire Prevention Association serving as Secretary and Treasurer, was an active member of Local 1065, serving as treasurer, and was an active member of the State of Ohio's Juvenile Fire Setter Program; and

WHEREAS, he obtained training to qualify and perform as Instructor for many areas of the EMS field including CPR, and Pediatric Advanced Life Support; and

WHEREAS, while he served under the direction of different Chiefs and administrations through the years, the performance of his duties and responsibilities and his working relationships were always characterized by an obvious dedication to his job, the Fire Department, and the community; and

WHEREAS, he was chosen by his fellow Firefighters as Firefighter of the Year in 1991; and

WHEREAS, his ability to secure grants for the Fire Prevention Bureau and equipment resulted in significant cost savings during his tenure as Fire Inspector; and

WHEREAS, James Davis retired from the South Euclid Fire Department on July 19, 2012 after his thirty three (33) and 4 months of years of faithful service to the City and his Department; and

WHEREAS, Council expresses its sincere appreciation and thanks to Inspector James Davis for his dedication to the community, and highly commends him for the manner in which he has carried out his responsibilities and duties as a member and Fire Inspector of the South Euclid Fire Department.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of South Euclid, Ohio:

Section 1: That the Mayor and Members of Council for themselves and on behalf of the people of the City of South Euclid express their respect and appreciation to Inspector James Davis for his dedication, interest, and devotion to the community of South Euclid.

Section 2: That a copy of this Resolution shall be delivered to James Davis, with sincerest appreciation for his distinguished service, and best wishes for continued success in all his future endeavors.

Section 3: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety within the City and therefore should be adopted at the earliest possible time. Wherefore this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icové, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Weló, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 70-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

A RESOLUTION

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO EPA TO ACCEPT A 2012 SURFACE WATER IMPROVEMENT FUND (SWIF) GRANT FOR CUYAHOGA COUNTY COMMUNITIES AND AUTHORIZING THE CITY ENGINEER TO PREPARE THE NECESSARY PLANS, SPECIFICATIONS, AND ADVERTISE FOR BIDS FOR THE SOUTH EUCLID MUNICIPAL COMPLEX STORMWATER DEMONSTRATION PROJECT IN THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, in March 2012, the Mayor made application to the Ohio EPA for a Surface Water Improvement Fund (SWIF) Grant to implement a stormwater demonstration project at the Municipal Complex and has been notified that the project has been selected for funding; and

WHEREAS, in order to obtain the SWIF Grant funding, the Mayor must enter into a grant agreement with the Ohio EPA; and

WHEREAS, to complete the project, the City Engineer must prepare plans and specifications and advertise the project for bids.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of South Euclid, Ohio:

Section 1: That the Mayor is hereby authorized to enter into an agreement with the Ohio EPA to accept a 2012 Surface Water Improvement Fund (SWIF) Grant for Cuyahoga County Communities in order to install a stormwater demonstration project at the South Euclid Municipal Complex.

Section 2: That the City Engineer is hereby authorized to prepare plans, specifications, and advertise for bids for completion of the South Euclid Municipal Complex Stormwater Demonstration Project.

Section 3: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 Resolution is deemed to be an emergency measure necessary for the immediate preservation of the peace, health, safety and welfare of the residents and for the further reason that a vital function of government is affected thereby. This Resolution shall take effect upon passage and approval.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 71-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

A RESOLUTION

A RESOLUTION AUTHORIZING THE APPROPRIATION OF  
UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND:  
"GENERAL IMPROVEMENT & REPAIR #408."

WHEREAS, funds were received in the form of an insurance payment for repairs to the City Service Garage; and

WHEREAS, these funds were not appropriated in the 2012 Budget.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "General Improvement & Repair Fund #408" in the amount of \$110,049.33.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents and for the further reason that a vital function of government is affected thereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 72-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

A RESOLUTION

AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "GENERAL FUND #101- LAW DEPARTMENT- CODIFICATION AND LEGAL ADVERTISING."

WHEREAS, funds must be appropriated in order to pay for the City's annual Codified Ordinance update and legal advertising expenses.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "General Fund #101-Law Department-Codification and Legal Advertising" in the amount of \$9,700.00.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents and for the further reason that a vital function of government is affected thereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 73-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

A RESOLUTION

AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "FLOOD CONTROL FUND #426-CONTRACTUAL SERVICES."

WHEREAS, City Council passed Resolution 57-12 on September 24, 2012 authorizing the transfer of funds from the Issue II Projects Fund to the Flood Control Fund; and

WHEREAS, the funds transferred to the Flood Control Fund must now be appropriated in order to be dispersed.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "Flood Control Fund #426-Contractual Services" in the amount of \$464,650.34.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents and for the further reason that a vital function of government is affected thereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 74-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

A RESOLUTION

AUTHORIZING THE APPROPRIATION OF UNAPPROPRIATED FUNDS IN THE FOLLOWING FUND: "CITY COUNCIL- OPERATING SUPPLIES."

WHEREAS, funds must be appropriated in order to pay for the purchase and/or repair of City Council Computer and related equipment and software.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council of the City of South Euclid hereby authorizes the Finance Director to appropriate unappropriated funds in the "City Council – Operating Supplies Fund" in the amount of \$3,000.00.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents and for the further reason that a vital function of government is affected thereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Approved:

Attest:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 35-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

AN ORDINANCE

APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

- WHEREAS, American Legal Publishing Corporation has completed its annual updating and revision of the Codified Ordinances of the City; and
- WHEREAS, various ordinances of a general and permanent nature have been passed by Council since the date of the previous updating and revision of the Codified Ordinances and have been included in the Codified Ordinances of the City; and
- WHEREAS, certain changes were made in the Codified Ordinances to bring City law into conformity with State law.

NOW THEREFORE BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That the editing, arrangement and numbering or renumbering of the following ordinances and parts of ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of the City so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. or Res.No.</u>	<u>Date</u>	<u>C.O. Section</u>
20-11	3-26-12	337.27
36-11	3-26-12	531.09
04-12	2-27-12	933.07
05-12	7-23-12	722.02, 722.03, 722.04, 732.02, 741.02, 746.02; Repeals 722.04, 722.05, 724.01 to 724.11, 734.01 to 734.10, 744.01 to 744.10
06-12	7-23-12	772.01 to 772.18
11-12	9-10-12	147.01
12-12	6-25-12	1315.01, 1317.01, 1318.01, 1319.01
28-12	9-24-12	Ed. Note, Ch. 351, Repeals Ch. 351
29-12	9-24-12	Ed. Note, Ch. 353, Repeals Ch. 353
30-12	9-24-12	147.01 to 147.28, 147.99

Section 2: That the following sections of the Codified Ordinances are or contain new matter in the Codified Ordinances and are hereby approved, adopted and enacted:

301.045, 301.165, 301.167, 301.17, 301.185, 301.257, 301.365, 301.45, 301.46, 301.47, 303.035, 313.03, 313.04, 313.05, 331.12, 335.07, 339.03, 341.01, 341.04, 341.05, 501.01, 501.11, 501.13, 501.99, 505.21, 509.06, 509.07, 513.01, 513.02, 513.03, 517.01, 517.05, 525.02, 529.07, 537.10, 541.02, 545.01, 545.02, 545.04, 545.05, 545.07, 545.08, 545.09, 545.095, 545.10, 545.14, 545.15, 545.165, 545.17, 545.18, 545.24, 545.25, 549.05

Section 3: That the following section of the Codified Ordinances is hereby repealed:

313.06 Flashing traffic signals

Section 4: That pursuant to Article II, Section 5(d), of the City Charter, Ohio R.C. 731.23 and Section 113.05 of the Codified Ordinances, the Clerk of Council shall publish the number, title and date of passage of this Ordinance, twice on the same day of two successive weeks in a newspaper of general circulation within the City, and, further, shall post a certified copy of this Ordinance, together with such summary, for at least fifteen days in a public place in the City Hall.

Section 5: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 6: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety and for the further reason that it will update the codification of the legislation of the City, consistent with the City Charter and with State law, where and as required by Article XVIII, Section 3, of the Ohio Constitution, with which to administer the affairs of the City, enforce law and order and avoid practical and legal entanglements. Wherefore, this Ordinance and the 2012 Replacement Pages for the Codified Ordinances hereby approved, adopted and enacted, shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

EXHIBIT A

SUMMARY OF NEW MATTER  
CONTAINED IN THE 2012 REPLACEMENT PAGES  
FOR THE  
CODIFIED ORDINANCES OF SOUTH EUCLID, OHIO

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New matter in the 2012 Replacement Pages for the Codified Ordinances of South Euclid, Ohio, includes legislation regarding:

<u>Section</u>	<u>New or amended matter regarding:</u>
301.045	Definition of "beacon."
301.165	Definition of "highway traffic signal."
301.167	Definition of "hybrid beacon."
301.17	Definition of "intersection."
301.185	Definition of "median."
301.257	Definition of "private road open to public travel."
301.365	Definition of "shared-use path."
301.45	Definition of "traffic."
301.46	Definition of "traffic control device."
301.47	Definition of "traffic control signal."
303.035	Emergency, public safety and coroners' vehicles excepted.
313.03	Traffic control signal terms and lights.
313.04	Signal to control lane direction of travel.
313.05	Pedestrian control signals.
313.06	Flashing traffic signals (Repealed).
331.12	"U" turns restricted.
335.07	Driving under suspension or in violation of license restrictions; driving under suspension for failure to appear in court, failure to pay a fine or failure to pay child support.
339.03	Maximum width, height, and length.
341.01	Definitions relating to drivers of commercial vehicles.
341.04	Physical qualification to operate commercial motor vehicles.
341.05	Criminal offenses.
501.01	Definitions relating to general offenses.
501.11	Organizational criminal liability.
501.13	Disposition of unclaimed or forfeited property held by Police Department.
501.99	Penalties for misdemeanor.
505.21	Restrictions on dog ownership for certain convicted felons.
509.06	Inducing panic.
509.07	Making false alarms.
513.01	Definitions relating to drugs.
513.02	Trafficking in controlled substances, gift of marihuana
513.03	Drug possession offenses.
517.01	Definitions relating to gambling.
517.05	Cheating.
525.02	Falsification
529.07	Open container prohibited.
537.10	Telecommunications harassment
541.02	Arson.
545.01	Definitions relating to property offenses.
545.02	Determining property value in theft offense.
545.04	Detention of shoplifters and those committing motion picture piracy; protection of institutional property.
545.05	Petty theft.
545.07	Insurance fraud.
545.08	Unauthorized use of property.
545.09	Passing bad checks.
545.095	Criminal simulation
545.10	Misuse of credit cards.
545.14	Tampering with records.

<u>Section</u>	<u>New or amended matter regarding:</u>
545.15	Securing writings by deception.
545.165	Diminishing or interfering with forfeitable property.
545.17	Defrauding creditors.
545.18	Receiving stolen property.
545.24	Medicaid fraud.
545.25	Workers' compensation fraud.
549.05	Improperly handling firearms in a motor vehicle.

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 36-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 147.01 "DESIGNATING PARKING INFRACTIONS, ESTABLISHING VIOLATIONS BUREAU" OF CHAPTER 147 "PARKING GENERALLY" OF TITLE FIVE "ADMINISTRATIVE" OF PART ONE "ADMINISTRATIVE CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Council of the City of South Euclid created new Chapter 147 "Parking Generally" through the passage of Ordinance 11-12 on September 10, 2012; and

WHEREAS, the Council of the City of South Euclid wishes to amend Chapter 147 "Parking Generally" to revise certain fines for parking infractions.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 147.01 "Designating Parking Infractions, Establishing Violations Bureau" of Chapter 147 "Parking Generally" of Title Five "Administrative" of Part One "Administrative Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

147.01 DESIGNATING PARKING INFRACTIONS, ESTABLISHING VIOLATIONS BUREAU

1. Definitions.

(A) "Parking Infraction" means a violation of Section 147.02.

(B) "Vehicle" has the same meaning as in Section 301.51 of Codified Ordinances of the City of South Euclid.

(C) "Court" or "Municipal Court" means the South Euclid Municipal Court.

(D) "Bureau" means the City of South Euclid Parking Violations Bureau.

(E) "Local Authority" means every county, municipal corporation, township, or other local board or body having authority to adopt police regulations pursuant to the constitution and laws of this state.

(F) "Disability Parking Space" means a motor vehicle parking location that is reserved for the exclusive standing or parking of a vehicle that is operated by or on behalf of a person with a disability that limits or impairs the ability to walk and displays a placard or license plates issued under section 4503.44 of the Revised Code.

(G) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in section 4503.44 of the Revised Code.

2. IMPOUNDMENT AND IMMOBILIZATION.

(A) A parking infraction shall not be considered a criminal offense for any purpose.

(B) A vehicle involved in five or more parking infractions in which judgments or default judgments have been filed with the Clerk of the Municipal Court pursuant to § 7(C) is subject to impoundment or immobilization by law enforcement officers of the City, without regard to whether the vehicle, at the time of impoundment or immobilization, is legally parked.

(C) The owner of any vehicle impounded is liable for impoundment fees and storage charges as provided by § 6.

(D) A vehicle impounded or immobilized under division (B) or (E) of this section shall be released to the owner upon the owner presenting a valid certificate of title to the vehicle to the violations clerk of the Parking Violations Bureau and either paying the fines, penalties, fees and costs due on the parking infractions issued or outstanding or payment of the judgments or default judgments which led to the impoundment or immobilization, or posting a bond equal to the amount of the fines, penalties, fees and costs. In no case shall the owner of a vehicle impounded or immobilized be required to post a bond in excess of \$1,000.00 to obtain release of the vehicle.

(E) Notwithstanding divisions (B) and (D) of this section, a vehicle parked, stopped, or standing on a public street or highway in commission of a parking infraction is subject to impoundment if the law enforcement officer issuing the parking infraction determines that the vehicle is substantially impeding, or hindering the movement of other traffic.

### 3. PARKING TICKET, SERVICE AND LIABILITY.

(A) The parking ticket adopted in § 9 shall be used by law enforcement officers in all cases in which a person is charged with committing a parking infraction within the City. The parking ticket shall be the summons and complaint.

(B) A law enforcement officer who issues a parking ticket for a parking infraction shall complete the ticket by identifying the infraction charged, recording the license plate number, type, and make or model of the vehicle, and indicating the date, time, and place of the infraction. The officer shall sign the ticket and affirm the facts it contains and file a copy with the violations clerk. If the operator of the vehicle is present, the officer shall record on the ticket the name of the operator on the ticket, and then shall personally serve the parking ticket upon the operator. If the operator of the vehicle is not present, the officer shall insert the word "owner" in the space provided on the ticket for identification of the offender, and constructively serve the parking ticket upon the owner of the vehicle by affixing the ticket to the vehicle in a conspicuous place.

Constructive service of a parking ticket upon an owner of a vehicle by affixation as provided in this division, or by the procedure described in division (D) of this section has the same force and effect, and potentially subjects both the owner and the operator of the vehicle whose act or omission resulted in the parking infraction, if different, to the same fine and the same penalties, fees, and costs for failure to timely answer or to appear, if a hearing is requested, as if the parking ticket were personally served on both the owner and operator of the vehicle at the time of the violation.

(C) The original of a parking ticket issued pursuant to this section or any true copy of it shall be considered a record kept in the ordinary course of business of the City and of the law enforcement agency whose officer issued it, and shall be prima facie evidence of the facts it contains.

(D) An operator of a vehicle who is not the owner of the vehicle, but who operates it with the express or implied permission of the owner, is the agent of the owner for purposes of the receipt of parking tickets served in accordance with this section and personal service of a parking ticket upon the operator in accordance with this section constitutes constructive service upon the owner. The operator of a rented or leased vehicle whose act or omission resulted in an alleged parking infraction is not considered an agent of the owner if the owner is engaged in the business of renting and leasing vehicles pursuant to a written rental or lease agreement and if the owner follows the procedures set forth in § 8.

(E) Except as provided in § 8, when a parking ticket is issued for a parking infraction and is served pursuant to this section, the operator of the vehicle whose act or omission resulted in the parking infraction for which the ticket was issued and the owner of the vehicle involved in the parking infraction, if different, are jointly liable for the parking infraction and any fine, penalty, fees, and costs arising out of the parking infraction. Any owner of a vehicle who pays any fine, penalty, fee, and cost imposed for a parking infraction may recover the amount paid from the operator of the vehicle whose act or omission resulted in the infraction.

(F) No person upon whom a parking ticket charging a parking infraction is personally or

constructively served shall be arrested as a result of the commission of the parking infraction.

#### 4. PARKING VIOLATIONS BUREAU.

(A) The City of South Euclid Parking Violations Bureau is hereby established pursuant to section 4521.04 of the Ohio Revised Code. The Parking Violations Bureau shall be a Division within the office of the Chief of Police. The Parking Violations Bureau has jurisdiction over each parking infraction that occurs within the territory of the City.

(B) The operating costs of the Parking Violations Bureau shall be paid by the City. City Council shall appoint hearing examiner(s). The Police Chief shall appoint a violations clerk and necessary clerical employees. No person shall be employed as a hearing examiner unless the person is an attorney admitted to the practice of law in this state or formerly was employed as a law enforcement officer.

(C) The fine, penalties, fees, and costs established for a parking infraction shall be collected, retained, and disbursed by the violations clerk if the parking infraction out of which the fine, penalties, fees, and costs arose occurred within the jurisdiction of the Bureau. The violations clerk shall issue blank tickets for parking infractions to law enforcement officers for the City, and prescribe conditions for issuance and accountability. The fine, penalties, fees, and costs collected by a violations clerk for a parking infraction shall be disbursed by the clerk to the City.

(D) The Chief of Police has authority to contract with any nongovernmental entity to provide services in processing, collecting, and enforcing parking tickets issued by law enforcement officers and civil judgments and default civil judgments entered pursuant to this ordinance. No contract shall affect the responsibilities of hearing examiners, or the ultimate responsibility of the violations clerk to collect, retain, and disburse fines, penalties, fees, and costs for parking infractions and money paid in satisfaction of judgments and default judgments entered pursuant to this ordinance. All contracts entered into by the violations clerk shall be subject to approval of City Council and the Mayor.

#### 5. ANSWERS, PROCEDURE.

(A) A person who is personally or constructively served with a parking ticket charging a parking infraction may answer the charge by appearing personally before the Parking Violations Bureau or by mail, within ten days from the date of the infraction. The answer shall be in one of the following forms:

(1) An admission that the person committed the infraction, by payment of any fine arising out of the parking infraction;

(2) An admission that the person committed the infraction, with an explanation of the circumstances surrounding the infraction;

(3) A denial that the person committed the infraction and a request for a hearing. If the person desires the presence, at the hearing, of the law enforcement officer who issued the parking ticket, the person must request his presence in his answer.

(B)(1) A person who admits that he committed a parking infraction shall, and a person who admits that he committed a parking infraction with explanation may, when he makes his answer, pay the fine arising out of the infraction admitted to the violations clerk of the Bureau.

(2) A person who admits that he committed a parking infraction with explanation shall submit evidence to the Bureau that explains the circumstances surrounding the parking infraction. The evidence may be submitted in person or, to avoid the necessity of personal appearance, may be sent as affidavits and other documentary evidence by mail. The Bureau, when it receives an answer admitting that a person committed a parking infraction with explanation, shall promptly determine whether the explanation mitigates the fact that the person committed the parking infraction and notify the person, in writing, of its determination.

If the Bureau determines that the explanation mitigates the fact that the person committed the parking infraction, the Bureau shall eliminate or reduce the amount of the fine arising out of

the parking infraction. If the fine is eliminated or reduced and the person has previously paid the fine, the amount paid in excess of the revised fine shall be returned to the person; if the fine is eliminated or reduced and the person has not previously paid the fine, the person shall pay only the amount of the revised fine. If the Bureau determines that the explanation does not mitigate the fact that the person committed the infraction, the person owes the entire amount of the fine arising out of the parking infraction, and if the person has not previously paid the fine, the person shall pay the entire amount of the fine. If a person admits that he committed a parking infraction with explanation and the person fails to pay the amount of the fine due within ten days after receiving notice of the Bureau's determination, unless the amount due has previously been paid, the Bureau's determination and the amount of the fine due shall be considered a judgment and shall be treated as if it were a judgment rendered subsequent to a hearing held pursuant to division (B) of § 7.

(3) A person who denies that he committed a parking infraction shall be granted a hearing concerning the infraction. The Bureau shall set a date for the hearing and notify the person, in writing, of the date, time, and place of the hearing. The hearing shall be conducted by a hearing examiner of the Parking Violations Bureau in accordance with §7

(C) If a person who is personally or constructively served with a parking ticket charging the commission of a parking infraction fails to timely answer the charge, as provided in division (A) of this section, the Parking Violations Bureau shall issue the proper notifications of infraction pursuant to § 6, and proceed according to that section. Failure to timely answer a charge may result in the imposition of an additional penalty of \$50.00.

(D) The issuance of a parking ticket, the filing of or failure to file an answer by a person personally or constructively served with the ticket, the substance of an answer, the payment of any fine, penalty, fee, and cost, and any other relevant information shall be entered in the records of the Bureau.

#### 6. FAILURE TO ANSWER.

(A) When a person is personally or constructively served with a parking ticket charging the commission of a parking infraction and fails to answer the charge within the time specified in § 5, the Parking Violations Bureau shall send notification of infraction as follows:

(1) If the person who fails to answer was the operator of the vehicle involved in the parking infraction at the time of the commission of the parking infraction and was personally served with the parking ticket, a notification of infraction shall be sent to that person, and additionally, if such person is not the owner of the vehicle, as determined from the records of the Bureau of Motor Vehicles, a notification of infraction also shall be sent to the owner at his most recent address appearing in such records;

(2) If the person who fails to answer was the owner of the vehicle and was constructively served with the parking ticket, a notification of infraction shall be sent to the owner at his most recent address appearing in the records of the Bureau of Motor Vehicles.

(B) A notification of infraction shall be sent within twelve months after the expiration of the time specified in § 5 for the making of an answer, shall be sent by first class mail, and shall contain all of the following:

(1) An identification of the parking infraction with which the person was charged and the time and date of the infraction, which identification may be a copy of the parking ticket;

(2) The amount of the fine, penalties, fees, and costs due;

(3) A warning that the person must answer the parking infraction charged in the ticket within thirty days or a default civil judgment in the amount of the fine, penalties, fees, and costs due may be entered against the person;

(4) A description of the allowable answers that may be made and notification that the person will be afforded a hearing before the Bureau if he denies in his answer that he committed the parking infraction;

(5) An identification of the manner in which and the entity to which an answer may be made;

(6) A warning that if the person fails to appear at a requested hearing, a default civil judgment in the amount of the fine, penalties, fees, and costs due may be entered against the person.

(C) A person who receives a notification of infraction pursuant to this section may answer in any of the ways provided in division (A) of § 5 for answers to parking infractions charged in a parking ticket. An answer under this section shall be made within thirty days after the date on which the notification of infraction was mailed, and shall be in one of the forms specified in divisions (A)(1), (2), and (3) of § 5 for answers to parking infractions charged in a parking ticket, except that if the answer includes payment of the fine arising out of the parking infraction any penalty, fee, or cost arising out of such infraction also shall be paid. The answer shall be governed by division (B) of § 5 for answers relative to parking infractions charged in a parking ticket, except that any determination of the amount to be paid under an answer admitting the commission of the parking infraction with explanation also shall consider any penalty, fee, or cost arising out of such infraction.

(D) If a person who is issued a notification of infraction fails to timely answer, as provided in division (C) of this section, the failure to answer shall be considered an admission that the person committed the parking infraction, and a default civil judgment in the amount of the fine, penalties, and costs due may be entered against the person. Failure to timely answer the parking infraction identified in the notification of infraction may result in the imposition of an additional penalty of \$50.00.

(E) The sending of a notification of infraction, the filing of or failure to file an answer by the person to whom it is sent, the substance of an answer, the payment of any fine, penalty, fee, and cost and any other relevant information shall be entered in the records of the Bureau.

## 7. HEARING PROCEDURE.

Information in proper form is prima facie evidence that the registered owner of the vehicle was the person who committed the (A) If a person who is personally or constructively served with a parking ticket charging the commission of a parking infraction or who receives a notification of infraction, in his answer to the charge denies that he committed the infraction, the Parking Violations Bureau shall conduct a hearing to determine if the person committed the infraction. Each hearing shall be conducted by a hearing examiner of the Parking Violations Bureau, in such manner as the hearing examiner considers appropriate. Rules regarding the admissibility of evidence shall not be strictly applied in the hearing, but all testimony shall be under oath.

At the hearing, the City has the burden of proving, by a preponderance of the evidence, that the person committed the parking infraction. If the person, in his answer, denied that he committed the infraction and requested the presence at the hearing of the law enforcement officer who issued the parking ticket, the officer shall be required to attend the hearing unless the hearing examiner determines that the officer's presence is not required. If the officer's presence at the hearing has been requested and the officer is unable to attend the hearing on the day and at the time scheduled, the hearing examiner may grant a reasonable continuance. The person for whom the hearing is being conducted may present any relevant evidence and testimony at the hearing. The person does not have to attend the hearing if he submits documentary evidence to the hearing examiner prior to the day of the hearing.

The City shall submit the original parking ticket that was personally or constructively served on the person or a true copy of that ticket, and information from the Bureau of Motor Vehicles that identifies the owner of the vehicle. The ticket and the parking infraction. The City may present additional evidence and testimony at the hearing. The City does not have to be represented at the hearing by an attorney.

(B)(1) If a person for whom a hearing is to be conducted appears at the scheduled hearing, the hearing examiner shall consider all evidence and testimony presented and shall determine whether the City has established, by a preponderance of the evidence, that the person committed the parking infraction. If the hearing examiner determines that the person committed the infraction, an order indicating the determination as a judgment against the person and requiring the person to pay the appropriate fine and any additional penalties, fees and costs shall be entered in the records of the Parking Violations Bureau.

(2) If a person for whom a hearing is to be conducted fails to appear at the scheduled hearing and fails to submit evidence in accordance with that division, the hearing examiner shall, if he determines from any evidence and testimony presented, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties, fees, and costs. A default judgment entered under this division shall be entered in the records of the Parking Violations Bureau.

(3) If a person who is sent a notification of infraction does not timely answer, the hearing examiner of the Parking Violations Bureau shall, if he determines from any evidence and testimony presented to him, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties, fees, and costs. A default judgment entered under this division shall be entered in the records of the Parking Violations Bureau.

(4) If the hearing examiner does not determine, by a preponderance of the evidence, that a person in any of the classes described in division (B)(1), (2), or (3) of this section committed the parking infraction, the hearing examiner shall enter judgment against the City, shall dismiss the charge against the person, and enter the judgment and dismissal in the records of the Parking Violations Bureau.

(5) A default judgment entered under this section may be vacated by the hearing examiner who entered it if all of the following apply:

(a) The person against whom the default judgment was entered files a motion with the Parking Violations Bureau within one year of the date of entry of the judgment;

(b) The motion sets forth a sufficient defense to the parking infraction out of which the judgment arose; and

(c) The motion sets forth excusable neglect as to the person's failure to attend the hearing or answer the notification of infraction.

(C) Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the violations clerk of the Parking Violations Bureau in which the judgment was entered within ten days of the date of entry. All money paid in satisfaction of a judgment or default judgment shall be disbursed by the clerk to the City, and the clerk shall enter the fact of payment and its disbursement in the records of the Bureau. If payment is not made within this period, the judgment or default judgment shall be filed with the Clerk of the South Euclid Municipal Court and when so filed, shall have the same force and effect as a money judgment in a civil action rendered in that court.

As required by RC 4521.08(C), judgments and default judgments filed with the South Euclid Municipal Court pursuant to this division shall be maintained in a separate index and judgment roll from other judgments rendered in that court. Computer printouts, microfilm, microdot, microfiche, or other similar data recording techniques may be utilized to record such judgments. When a judgment or default judgment is filed with the court, execution may be levied, and such other measures may be taken for its collection as are authorized for the collection of an unpaid money judgment in a civil action rendered in that Court. The court may assess costs against the judgment debtor, in an amount not exceeding \$79.00 for each parking infraction, to be paid upon satisfaction of the judgment.

(D) Any person against whom a judgment or default judgment is entered pursuant to this section, and the City, if a judgment is entered against the City pursuant to this section, may appeal the judgment to the South Euclid Municipal Court by filing notices of appeal with the Parking Violations Bureau and the Municipal Court within fifteen days of the date of entry of the judgment and by the payment of such reasonable costs as the Court requires. Upon the filing of an appeal, the Court shall schedule a hearing date and notify the parties of the date, time, and place of the hearing. The hearing shall be held by the Court in accordance with the rules of the Court. Service of notice of appeal under this division by a person does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the Parking Violations

Bureau in the amount of the judgment, plus court costs, at or before service of the notice of appeal.

The judgment on appeal to the Municipal Court is final, and no other appeal of the judgment of the Parking Violations Bureau and no appeal of the judgment of the Municipal Court may be taken.

(E) A default judgment entered pursuant to this section may be filed with the Municipal Court under division (C) of this section at any time within three years after the date of issuance of the parking ticket charging the parking infraction out of which the judgment arose. This division applies to any ticket issued for an offense that would be a parking infraction on or after the effective date of this section if the ticket was issued within three years prior to the effective date of this section.

#### 8. NONLIABILITY OF OWNER.

(A) An owner of a vehicle is not jointly liable with an operator of the vehicle whose act or omission resulted in a parking infraction for the parking infraction or any fine, penalty, fee, or cost arising out of the parking infraction if any of the following apply:

(1) The owner answers the charge of the parking infraction under § 5 or 6, the answer denies that he committed the infraction and requests a hearing concerning the infraction, the owner additionally asserts and provides reasonable evidence at that time to prove that the vehicle, at the time of the commission of the parking infraction, was being used by the operator without the owner's express or implied consent, and the Parking Violations Bureau determines that the vehicle was being used without the owner's express or implied consent at that time. If the Bureau does not so determine, it shall conduct the hearing concerning the infraction according to § 7.

(2) The owner answers the charge of the parking infraction under § 5 or 6, the answer denies that he committed the parking infraction, the owner additionally submits evidence at that time that proves that, at the time of the alleged commission of the infraction, the owner was either engaged in the licensed taxicab business or otherwise engaged in the business of renting or leasing vehicles underwritten rental or lease agreements, and the owner additionally submits evidence that proves that, at the time of the alleged commission of the parking infraction, the vehicle in question was in the care, custody, or control of a person other than the owner either pursuant to an employment relationship, if the owner was engaged in the licensed taxicab business, or otherwise pursuant to a written rental or lease agreement. If the owner does not so prove, the Parking Violations Bureau shall conduct a hearing relative to the infraction according to § 7.

(3) The owner, at a hearing concerning the parking infraction conducted in accordance with § 7, proves that the vehicle, at the time of the parking infraction, was being used by the operator without the owner's express or implied consent or proves the facts described in division (A)(2) of this section.

(B) An owner of a vehicle who is either engaged in the licensed taxicab business or otherwise engaged in the business of renting or leasing vehicles underwritten rental or lease agreements, but who does not satisfy the additional requirement of division (A)(2) of this section is not liable for any penalties arising out of a parking infraction involving the vehicle if at the time of the commission of the parking infraction, the vehicle was in the care, custody, or control of a person other than the owner either pursuant to an employment relationship, if the owner was engaged in the licensed taxicab business, or otherwise pursuant to a written rental or lease agreement, and if the owner answers the charge of the parking infraction by denying that he committed the parking infraction or by paying the fine arising out of the parking infraction within thirty days after actual receipt of the parking ticket charging the infraction or, if the owner did not receive the parking ticket, within thirty days after receipt of the notification of infraction.

Proof that the vehicle was in the care, custody, or control of a person other than the owner pursuant to a written rental or lease agreement at the time of the alleged parking infraction shall be established by sending a true copy of the rental or lease agreement or an affidavit to that effect to the Parking Violations Bureau within thirty days after the date of receipt by the

owner of the parking ticket charging the infraction or, if the owner did not receive the parking ticket, within thirty days after receipt of the notification of infraction. The submission of a true copy of a written rental or lease agreement or affidavit shall be prima facie evidence that a vehicle was in the care, custody, or control of a person other than the owner. In addition, any information required by division (A)(2) of this section may be provided on magnetic tape or another computer-readable media in a format acceptable to the City of South Euclid.

**9. PARKING TICKET ADOPTED.**

The following parking ticket is adopted to be used by law enforcement officers in all cases in which a person is charged with a parking infraction within the City of South Euclid:

(Front)  
 Offender Name \_\_\_\_\_ License Plate No. \_\_\_\_\_  
 \_\_\_\_\_  
 Vehicle Make \_\_\_\_\_ or Model \_\_\_\_\_  
 Parking Infraction Type, \_\_\_\_\_ or Model \_\_\_\_\_  
 Date of Violation \_\_\_\_\_ Time of Violation \_\_\_\_\_

Place of Violation \_\_\_\_\_

Below signed officer affirms the facts contained in this parking infraction.

\_\_\_\_\_  
 Ptl.

(Back)

The owner-operator of the vehicle designated has been charged with a parking infraction.

You must, within 10 days, answer this infraction by admitting the parking infraction, admitting the parking infraction with an explanation of the circumstances, or denying the parking infraction and requesting a hearing.

Answers may be made in person, by mail or phone to the violations clerk, Parking Violations Bureau,

[address]

Failure to answer within 10 days or to appear at a requested hearing will be considered an admission of this parking infraction, and may result in a default judgment against you and impoundment or immobilization of the designated vehicle, and penalties prescribed by ordinance. Any parking ticket that does not contain all of the above legal requirements shall be null and void, and shall not be enforced by the Bureau or the Court. Any money collected pursuant to a parking ticket that does not contain all of the above legal requirements shall be refunded to the person owning the vehicle.

**10. PARKING INFRACTION FINES.**

The following fines for parking infractions are hereby established:

	If paid within 10 days of the time notice was issued	After 10 days but within 30 days from the time notice was issued	After 30 days but prior to the time a civil complaint is issued
147.04	\$15.00	\$30.00	\$45.00
<b>147.05 (a) &amp; (b)</b>	<b>\$15.00</b>	<b>\$30.00</b>	<b>\$45.00</b>
<b>147.05 (d)</b>	<b>\$50.00</b>	<b>\$100.00</b>	<b>\$250.00</b>
147.05 (f) <b>1<sup>st</sup> Offense Warning</b>	\$250.00	\$300.00	\$350.00

147.05 (f) Previously Violated	\$25.00 for each parking space	\$50.00	\$75.00
147.06	\$15.00	\$30.00	\$45.00
147.08	\$15.00	\$30.00	\$45.00
147.09	\$15.00	\$30.00	\$45.00
147.11	\$15.00	\$30.00	\$45.00
147.12	\$15.00	\$30.00	\$45.00
147.13	\$15.00	\$30.00	\$45.00
147.14	\$15.00	\$30.00	\$45.00
147.16	\$15.00	\$30.00	\$45.00
147.17	\$15.00	\$30.00	\$45.00
147.18 1 <sup>st</sup> offense	\$20.00	\$30.00	\$60.00
147.18 2 <sup>nd</sup> offense	\$30.00	\$50.00	\$100.00
147.20	\$15.00	\$30.00	\$45.00
147.21	\$15.00	\$30.00	\$30.00
147.22	\$15.00	\$30.00	\$45.00
147.25	\$15.00	\$30.00	\$45.00
147.30	\$15.00	\$30.00	\$45.00

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety and for further reason that all rules and regulations related to the parking of motor vehicles effect a vital function of government. Wherefore, this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

## FISCAL OFFICER'S CERTIFICATE

City of South Euclid, Ohio  
November 12, 2012

TO THE COUNCIL OF THE CITY OF SOUTH EUCLID, OHIO

The undersigned, as fiscal officer of the City of South Euclid, Ohio, as defined by Revised Code Section 133.01, hereby certifies as follows in connection with your proposed issue of \$1,800,000 of bonds and notes in anticipation thereof for the purpose of acquiring, clearing and otherwise improving that certain real estate and the buildings thereon as described in Ordinance No. 81-06 passed by the Council on November 13, 2006 authorizing the purchase thereof pursuant to Article VIII, Section 16 of the Ohio Constitution, and paying costs of issuance:

1. That the estimated life of the improvements to be acquired from the proceeds of said issue is hereby certified to be at least five (5) years.
2. That the maximum maturity of such bonds calculated in accordance with the provisions of Section 133.20 of the Revised Code of Ohio is at least twenty-five (25) years, provided that if notes in anticipation of such bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original notes (2006), the period thereof in excess of five (5) years shall be deducted from the latest permitted maturity of said bonds.
3. That the maximum maturity of notes issued in anticipation of such bonds is December 26, 2031, which is twenty-five (25) years from the date of the notes originally issued for such purpose.

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Finance Director  
City of South Euclid

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 37-12  
INTRODUCED BY: Icove  
REQUESTED BY: Mayor

November 12, 2012

AN ORDINANCE

TO PROVIDE FOR THE ISSUANCE AND SALE OF NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS IN AN AMOUNT OF \$1,800,000 FOR THE PURPOSE OF ACQUIRING, CLEARING AND OTHERWISE IMPROVING THAT CERTAIN REAL ESTATE AND THE BUILDINGS THEREON AS DESCRIBED IN ORDINANCE NO. 81-06 PASSED BY THE COUNCIL ON NOVEMBER 13, 2006 AUTHORIZING THE PURCHASE THEREOF PURSUANT TO ARTICLE VIII, SECTION 16 OF THE OHIO CONSTITUTION, AND PAYING COSTS OF ISSUANCE; AND DECLARING AN EMERGENCY.

WHEREAS, for the purpose of providing or assisting in providing housing, the City, pursuant to Ordinance No. 81-06 passed on November 13, 2006, purchased, pursuant to Article VIII, Section 16 of the Ohio Constitution, certain real estate and the buildings thereon, and cleared and otherwise improved the site thereof, in order, as presently intended by the City, to make it suitable for sale or lease to a developer or developers for development of residential facilities, thereby enhancing the availability of adequate housing in, and improving the economic and general well-being of the residents of, the City; and

WHEREAS, in connection therewith, the City issued its \$1,800,000 Housing Development Special Obligation Note, Series 2006, the issuance date of which was December 27, 2006 (the "2006 Notes"), which 2006 Notes were retired with the proceeds of the City's \$1,800,000 Housing Development Special Obligation Note, Series 2007, the issuance date of which was December 20, 2007 (the "2007 Notes"), which 2007 Notes were retired with the proceeds of the City's \$1,800,000 Housing Development Special Obligation Note, Series 2008, the issuance date of which was December 18, 2008 (the "2008 Notes"), which 2008 Notes were retired with the proceeds of the City's \$1,800,000 Housing Development Special Obligation Note, Series 2009, the issuance date of which was December 17, 2009 (the "2009 Notes"), which 2009 Notes were retired with the proceeds of the City's \$1,800,000 Housing Development Special Obligation Note, Series 2010, the issuance date of which was December 16, 2010 (the "2010 Notes"), which 2010 Notes were retired with the proceeds of the City's \$1,800,000 Housing Development Special Obligation Notes, Series 2011, the issuance date of which was December 15, 2011 (the "Refunded Notes"), which Refunded Notes will mature December 13, 2012 and which Refunded Notes are currently outstanding; and

WHEREAS, the Council of the City has determined that payment of the outstanding principal of the Refunded Notes shall be funded at maturity by the issuance of new notes in a principal amount of \$1,800,000; and

WHEREAS, the fiscal officer has certified to the estimated life of the improvements to be acquired with the proceeds of the bonds anticipated, the maximum maturity of the bonds anticipated and the notes herein authorized;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That it is hereby declared necessary to issue bonds of the City of South Euclid in a principal sum of \$1,800,000 for the purpose of acquiring, clearing and otherwise improving that certain real estate and the buildings thereon as described in Ordinance No. 81-06 passed by the Council on November 13, 2006 authorizing the purchase thereof pursuant to Article VIII, Section 16 of the Ohio Constitution and paying costs of issuance.

Section 2: That said bonds shall be dated December 12, 2013, shall bear interest which shall not exceed five per centum (5%) per annum, payable on June 1 and December 1 of each year, commencing June 1, 2014 until the principal sum is paid, and shall mature in twenty-four

(24) annual installments after their issuance. The first principal installment is estimated to be made on December 1, 2014.

Section 3: That it is hereby determined that notes (hereinafter referred to as the "Notes") in a principal amount of \$1,800,000 shall be issued in anticipation of the issuance of bonds for the above-described purposes and to retire the Refunded Notes. The services of Calfee, Halter & Griswold LLP, Bond Attorneys, Cleveland, Ohio, as Bond Counsel for the Notes are hereby retained. The Notes shall be sold at private sale as provided in Section 5 hereof and shall bear interest at the rates fixed by the Finance Director or the Mayor in the certificate awarding the Notes (the "Certificate of Award"), provided that such rates shall not exceed three per centum (3%) per annum. Interest on the Notes shall be payable at maturity, with provision, if requested by the purchaser, that, in the event of default, the Notes shall bear interest, at a rate which shall not exceed three per centum (3%) per annum, until the principal sum is paid or provided for. The Notes shall be dated their date of issuance, shall mature on a date that is between three months and twelve months, inclusive, from their date of issuance, all as determined by the Finance Director or the Mayor to be in the best interest of the City and set forth in the Certificate of Award, provided that if such maturity date is not a business day, the Notes shall mature on the first business day immediately preceding such date. The Notes shall not be subject to redemption by the City at any time prior to maturity, unless the Original Purchaser (as defined herein) of the Notes requests that the Notes provide for such redemption, in which case provision shall be made for calling the Notes for redemption upon ten (10) days written notice to the Paying Agent for the Notes (as defined below), or to the Original Purchaser if the Finance Director is the Paying Agent. In addition, the Notes shall be issued in the numbers and denominations requested by the Original Purchaser (subject to the provisions of Section 4), and shall be payable as to both principal and interest at the office of the Finance Director of the City, or at a bank or trust company designated by the Finance Director (herein individually or collectively the "Paying Agent"), without deduction for exchange, collection or service charge. To the extent that at the maturity of the Notes funds of the City, whether from the Nontax Revenues (as hereinafter defined) or otherwise, are not available in an amount sufficient to retire the Notes, the Council of the City shall pass legislation authorizing the issuance of notes or bonds, the proceeds of which shall be used to retire said Notes.

Section 4: The Notes shall be designated "Housing Development Special Obligation Note, Series 2012." Such Notes shall contain a summary statement of purposes for which they are issued; shall state that they are issued pursuant to this Ordinance, shall be issued in the numbers and denominations requested by the Original Purchaser, provided that the Notes shall be in minimum denominations of \$100,000, and shall be executed by the Mayor and the Finance Director of the City, provided that one of such signatures may be a facsimile signature.

The Notes, pursuant to the terms set forth below, may also be issued to a Depository (as hereinafter defined) for use in a book-entry system (as hereinafter defined). The Finance Director is hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the authentication, immobilization, and transfer of the Notes, including arrangements for the payment of principal and interest by wire transfer, after determining that the execution thereof will not endanger the funds or securities of the City, which determination shall be conclusively evidenced by the signing of any such agreement.

If and as long as a book-entry system is utilized, (i) the Notes shall be issued in the form of one Note in the name of the Depository or its nominee, as owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book-entry form shall be shown by a book entry on the system maintained and operated by the Depository and its Participants (as hereinafter defined), and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Council of the City.

If any Depository determines not to continue to act as a Depository for the notes for use in a book-entry system, the Finance Director may attempt to have established a securities depository/book-entry relationship with another qualified Depository. If the Finance Director does not or is unable to do so, the Finance Director, after making provision for notification of the

beneficial owners by the then Depository and any other arrangements he deems necessary, shall permit withdrawal of the Notes from the Depository, and authenticate and deliver Note certificates in bearer or registered form, as he determines, 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 Council action or inaction, of those persons requesting such issuance.

As used in this Section and this Ordinance:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to principal and interest may be transferred only through a book entry and (ii) physical notes are issued only to a Depository or its nominee as owner, with the notes “immobilized” to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in that principal and interest.

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

“Nontax Revenues” means all moneys of the City which are not moneys raised by taxation, to the extent available for the purpose of paying Note Service Charges, including, but not limited to the following: (a) proceeds from the sale or lease of all or a portion of the Project Site; (b) grants from the United States of America and the State; (c) fines and forfeitures which are deposited in the City’s General Fund; (d) fees deposited in the City’s General Fund for services provided and from properly imposed licenses and permits; (e) investment earnings on the City’s General Fund; (f) investment earnings on other funds of the City that are credited to the City’s General Fund; (g) proceeds from the sale of assets which are deposited in the City’s General Fund; (h) gifts and donations; (i) all rental payments which are deposited in the City’s General Fund; and (j) any moneys in the fund for the Project into which the proceeds of the Notes are deposited and which are not needed to pay costs of the Project.

“Note Service Charges” means, for any period of time, the principal of and interest required to be paid by the City on the Notes for such time period.

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

“Project” means acquiring, clearing and otherwise improving the Project Site, for sale or lease to a developer or developers for development of residential facilities.

“Project Site” means that certain real estate and the buildings thereon as described in Ordinance No. 81-06 passed by the Council on November 13, 2006 authorizing the purchase thereof pursuant to Article VIII, Section 16 of the Ohio Constitution.

Section 5: That the Notes shall be sold by the Finance Director or the Mayor at private sale as provided in the Certificate of Award to KeyBank National Association (the “Original Purchaser”), in accordance with law and the provisions of this Ordinance. The Finance Director shall, in accordance with his determination of the best interests of and financial advantages to the City and its taxpayers and conditions then existing in the financial market, consistently with the provisions hereof, establish the terms of the Notes to be specified in a Certificate of Award and sign the Certificate of Award referred to in Section 3 evidencing the sale of the Notes. The Finance Director is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser thereof upon payment of the purchase price. The proceeds of such sale shall be paid into the proper fund and used for the purpose for which the Notes are being issued and to pay those costs of issuance set forth in Section 133.15(B), Ohio Revised Code. Any premium received by the City and accrued interest shall be transferred to the City’s Bond Retirement Fund to be applied to the payment of the principal of and interest on the Notes in the manner provided by law. In addition, the Mayor and the Finance Director, as appropriate, are each authorized and directed to sign any other transcript certificates, financial statements and other documents, agreements, representations and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

The City covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary so that the Notes will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The Finance Director, as the fiscal officer, or any other officer of the City having responsibility for the issuance of the Notes shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances, and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Notes.

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

The City covenants that all books and documents in the City's possession relating to the Project and the Nontax Revenues shall be open at all times during the City's regular business hours to inspection by such accountants or other agents of the Noteholders as the Noteholders may from time to time designate.

Section 6: The City hereby represents that all conditions are met for treating the Notes as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(B)(i) of the Code and that the Notes are deemed to have been designated as such without further action of the City by reason of Section 265(b)(3)(D)(ii) of the Code.

Section 7: That the Finance Director is authorized and directed to execute a continuing disclosure certificate (the "Disclosure Certificate") dated the date of delivery of the Notes and delivered to the Original Purchaser of the Notes for the benefit of the holders of the Notes (the "Noteholders") and to assist the Original Purchaser in complying with S.E.C. Rule 15c2-12(b)(5), which Disclosure Certificate shall set forth the City's undertaking to provide annual reports and notices of certain events. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Disclosure Certificate. Failure of the City to comply with the Disclosure Certificate shall not be considered an event of default; however, any Noteholder may take such actions as may be necessary and appropriate to cause the City to comply with its obligations under this Section.

Section 8: The Notes and any bonds issued to retire the Notes shall be special obligations of the City, and the Note Service Charges on the Notes and the debt service charges on any bonds issued to retire the Notes shall be payable solely from the Nontax Revenues, and the payment of Note Service Charges is secured by a pledge of and lien on the Nontax Revenues on deposit in the Note Fund (as hereinafter defined). The Notes and any bonds issued to retire the Notes are not and shall not be secured by an obligation or pledge of any money raised by taxation. The Notes and any bonds issued to retire the Notes do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City, and the Noteholder or Noteholders thereof shall have no right to have taxes levied by the City for the payment of Note Service Charges on the Notes or debt service charges on any bonds issued to retire the Notes.

Section 9: That during the years while the Notes are outstanding, it will appropriate and maintain Nontax Revenues at such times and in such amounts as will be sufficient, together with the proceeds of any bonds issued to retire the Notes or renewal notes issued in anticipation of such bonds available for the purpose (collectively, "renewal obligations"), to pay the Note Service Charges on the Notes when due and will so restrict other obligations payable from Nontax Revenues prior to or on a parity with the Note Service Charges on the Notes as will

ensure the continuing availability for appropriation of sufficient Nontax Revenues to pay Note Service Charges when due.

The par value to be received from the sale of the bonds anticipated by the Notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity together with the interest thereon, and is hereby pledged for such purpose. Nothing in this Ordinance shall prevent the City from retiring all or any portion of the Notes with the proceeds with other available cash, with the proceeds of bond anticipation notes, or with the proceeds of bonds or other obligations containing terms different than those described in this Ordinance.

There is created by the City a separate fund or account designated as the "Housing Development Special Obligation Note Retirement Fund" (the "Note Fund") into which Nontax Revenues shall be deposited on or prior to the date of maturity of the Notes in an amount sufficient to pay Note Service Charges.

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

Section 10: That it is hereby determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City, will have been done and performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of the Notes.

Section 11: That the Finance Director of the City is hereby directed to forward or cause to be forwarded a certified copy of this Ordinance to the County Fiscal Officer of Cuyahoga County and to secure a receipt therefor.

Section 12: That the Mayor and Finance Director, or either of them, are hereby authorized to prepare, execute and deliver to the Original Purchaser of the Notes a preliminary and final Official Statement or any other appropriate disclosure document of the City in connection with the sale and delivery of the Notes.

Section 13: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such 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 14: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation for the public peace, health, and safety and for further reason that this Ordinance is required to be immediately effective to provide funds to retire the Refunded Notes which are about to mature and thereby protect the credit of the City. Wherefore, this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Edward A. Icove, President Pro-Tem

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

I, Keith A. Benjamin, do hereby certify that this Ordinance No. 37-12 is an exact copy of the Ordinance No. 37-12 passed by South Euclid City Council on \_\_\_\_\_.

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council