

**REGULAR COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY, JANUARY 22, 2019
7:30 P.M.**

A. ROLL CALL OF MEMBERS:

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF MINUTES OF PRECEDING MEETINGS:

1. CAUCUS PRIOR TO THE COUNCIL MEETING HELD ON DECEMBER 18, 2018.
2. REGULAR COUNCIL MEETING HELD ON DECEMBER 18, 2018.

D. REPORTS OF STANDING COMMITTEES:

Aviation & Environmental Committee - Chairman, Poindexter
Finance Committee - Chairman, Scott
Legislative Committee - Chairman, Mencini
Parks & Recreation Committee - Chairman, Salvatore
Planning Committee - Chairman, Burgio
Safety Committee - Chairman Stemm
Service Committee - Chairman, Orcutt
Board of Zoning Appeals - Chairman, Scott

E. REPORTS OF SPECIAL COMMITTEES:

Southwest General Health Center - Trustee, Salvatore
Berea Board of Education Committee - McDonnell, Poindexter

F. REPORTS OF BOARDS AND COMMISSIONS:

G. INTRODUCTION OF RESOLUTIONS OF COMMENDATION:

1. A PROCLAMATION HONORING BROOK PARK SCHOOL CHOICE WEEK
2. A PROCLAMATION HONORING THE 2018 9-10 YEAR-OLD SUBURBAN YOUTH FOOTBALL CONFERENCE JUNIOR VARSITY CHAMPIONS 'TITANS'
3. A PROCLAMATION HONORING THE 2018 9-10 YEAR-OLD SUBURBAN YOUTH FOOTBALL CHEERLEADING CHAMPIONS 'TITANS'
4. A PROCLAMATION HONORING CHRIS SHICK, ANNOUNCER AND VOICE OF BROOK PARK YOUTH FOOTBALL

H. REPORTS AND COMMUNICATIONS FROM THE MAYOR:

I. REPORTS AND COMMUNICATIONS FROM DEPARTMENTS, COMMISSIONS, AND OTHER PUBLIC OFFICIALS:

J. OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL APPROVAL: (INTRODUCTION OF NEW LEGISLATION):

K. MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:

L. REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:

M. INTRODUCTION OF ORDINANCES AND RESOLUTIONS: (FIRST READING):

1. ORDINANCE NO. 11058-2019, AMENDING SECTIONS 1323.03 OF THE BROOK PARK CODIFIED ORDINANCES AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.
2. ORDINANCE NO. 11059-2019, AMENDING CHAPTER 1414 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'RESIDENTIAL RENTAL HOUSING REGISTRATION' AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella

M. INTRODUCTION OF ORDINANCES AND RESOLUTIONS: CONT.

3. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT OF COOPERATION WITH THE COUNTY OF CUYAHOGA FOR THE RESURFACING OF SHELDON ROAD (COUNTY ID#1224) AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

N. SECOND READING OF ORDINANCES AND RESOLUTIONS:

O. THIRD READING OF ORDINANCES AND RESOLUTIONS:

P. ADJOURNMENT:

**SYNOPSIS OF ORDINANCES
FOR THE COUNCIL MEETING OF JANUARY 22, 2019**

FIRST READING:

Ord. 11058-2019 AN ORDINANCE AMENDING 1323.03 OF THE BROOK PARK CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance amending Section 1323.03 of our codified ordinances to limit re-occupancy inspections only to dwelling areas that are in plain view.

Ord. 11059-2019 AN ORDINANCE AMENDING CHAPTER 1414 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'RESIDENTAL RENTAL HOUSING REGISTRATION,' AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance amending Section 1414 of our codified ordinances to inspect the exterior of housing units, limiting the inspections to areas that are in plain view.

Ord. 11060-2019 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT OF COOPERATION WITH THE COUNTY OF CUYAHOGA FOR THE RESURFACING OF SHELDON ROAD (COUNTY ID #1224) AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance authorizing the Mayor to enter into a Contract with the County for the Resurfacing of Sheldon Road from Eastland Road to Harrow Road within the Cities of Brook Park and Middleburg Heights.

**PREPARED BY THE BROOK PARK LEGAL DEPARTMENT
JANUARY 16, 2018**

CITY OF BROOK PARK, OHIO

P/C 12/11/18 Legislative
Caucus 12/11/18
1st R 12/18/18 - amended
2nd R 1/22/19
3rd R
B/C
Caucus 1/15/19

ORDINANCE NO: 11058-2019

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE
AMENDING SECTIONS 1323.03
OF THE BROOK PARK CODIFIED ORDINANCES,
AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Section 1323.03 passed by Ordinance No. 4579-1974, April 2, 1974 and Ordinance No. 9555-2009, January 20, 2009 of the Brook Park Codified Ordinances, and reading as follows:

1323.03 REOCCUPANCY CERTIFICATE FOR VACATED DWELLING, BUILDING OR STRUCTURE.

(a) Whenever any dwelling, building or structure has been sold or vacated by its former occupant, or a change in its former occupant or a change in its use is contemplated, no person, firm or corporation, shall reoccupy such dwelling, building or structure, until and unless a Certificate of Re-occupancy has been issued, therefore, under the same terms and conditions as required for an original Certificate.

(b) Before a dwelling, building or structure is sold, deed, land contract or otherwise, the owner shall apply for a Re-occupancy Permit, and if the dwelling, building or structure is to be sold "as is", shall furnish to the new owner a copy of all violations found upon inspection which must be corrected before a Re-occupancy Permit can be issued.

is hereby amended to read:

1323.03 REOCCUPANCY CERTIFICATE FOR VACATED DWELLING, BUILDING OR STRUCTURE,

(a) Whenever any dwelling, building or structure has been sold or vacated by its former occupant, or a change in its former occupant or a change in its use is contemplated, no person, firm or corporation, shall reoccupy such dwelling, building or structure, until and unless a Certificate of Re-

occupancy has been issued, therefore, under the same terms and conditions as required for an original Certificate.

(b) Before a dwelling, building or structure is sold, deed, land contract or otherwise, the owner shall apply for a Re-occupancy Permit, and if the dwelling, building or structure is to be sold "as is", shall furnish to the new owner a copy of all violations found upon inspection which must be corrected before a Re-occupancy Permit can be issued.

(c) The scope of the inspection shall be limited to such areas as are in plain view.

SECTION 4: Former Section 1323.03 of the Brook Park Codified Ordinances, as enacted by Ordinance No. 4579-1974, passed April 2, 1974, and Ordinance No. 9555-2009, passed January 20, 2009 is hereby expressly repealed.

SECTION 5: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees 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: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, safety and welfare of said City, and for the further reason to amend section 1323.03, of the Brook Park Codified Ordinances; therefore provided this Resolution receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

APPROVED: _____
MAYOR

DATE

CITY OF BROOK PARK, OHIO

P/C 12/11/18 Legislative
Caucus 12/11/18
1st R 1/22/19
2nd R
3rd R
B/C
Caucus 1/15/19

ORDINANCE NO: 11059-2019

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE
AMENDING CHAPTER 1414
OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED
'RESIDENTIAL RENTAL HOUSING REGISTRATION,'
AND DECLARING AN EMERGENCY

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Chapter 1414 of the Brook Park Codified Ordinances, passed by Ordinance No. 9897-2014, passed April 5, 2014 and reading as follows:

1414 RESIDENTIAL RENTAL HOUSING REGISTRATION

1414.01 PURPOSE.

The purposes of this chapter are to protect the public health, safety and welfare by establishing residential rental housing registration, to impose certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the interior and exterior inspection of rental housing properties; to provide for the issuance of a rental license; to establish a fee schedule for inspection and to fix penalties for violations of this chapter. This chapter is hereby declared to be remedial and essential for the public interest, and it is intended that this chapter be liberally construed to effectuate the purposes as stated herein.

1414.02 DEFINITIONS.

As used in this Chapter:

(a) **DESIGNATED CITY OFFICIAL:** Means the Building Commissioner of the City of Brook Park, Ohio and/or his/her designee.

(b) **DWELLING:** Means any building or portion of a building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that is occupied for living purposes.

(c) **DWELLING UNIT:** Means a space within a dwelling, comprised of a living, cooking and dining area, a sleeping room or rooms, storage closets and bathing and toilet facilities, all used

by only one family.

(d) OWNER: Means the person claiming, or in whom is invested, the ownership, dominion, or title of real property including but not limited to: holder of fee-simple title, holder of life-estate, holder of leasehold estate for an interim term of five years or more; a buyer under contract for deed; a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of leasehold estate or a tenancy for initial term of less than five years.

(e) PERSON: Means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest or any other legal or community entity.

(f) PROPERTY MANAGER: Means a person other than the owner that has managing control of a rental unit.

(g) RENT: Means the offering, holding out or actual leasing of a rental unit to an occupant other than the owner and generally involves the payment of a rental amount although other forms of consideration may be involved or no consideration at all may be involved.

(h) RENTAL UNIT: Means any dwelling unit; or any rented room within a single family or two family dwelling, duplex, condominium or townhouse where either money or other valuable consideration is paid for occupancy of such unit, or a person, not the record owner, is occupying the unit, whether or not such person pays money or other valuable considerations therefore.

(i) TENANT: Means any person who rents or leases a rental unit for living or dwelling purposes with the consent of the landlord.

1414.03 RENTAL REGISTRATION REQUIREMENTS AND FEES.

(a) Each owner of a rental unit within the City shall register each such rental unit with the designated City official within 30 days of the effective date of this Ordinance and shall renew such registration annually. Each new owner of a rental unit within the City shall make application for registration with the designated City official within 30 days after the date of acquiring ownership of a rental unit. A separate registration shall be required for each rental unit.

1. Each application for rental registration shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) per rental unit with a maximum fee for rental units of two thousand dollars (\$2,000.00).
2. If an owner fails to timely register a rental unit, the registration fee shall be tripled per unit. The owner shall also be subject to the penalty provisions as set forth below.

(b) Application for rental registration shall be made upon a form provided by the City for such purpose, and shall indicate at least the following information:

1. Owner's name, address, and work and home telephone number. No post office boxes will be accepted. A state of Ohio photo identification will be required for identification purposes only;
2. If owner is a partnership, the name and address of all partners, the principal business address, and telephone number of each partner;
3. If owner is a corporation, the person registering must state whether it is organized under the laws of this State or is a foreign corporation, and must show the mailing address (No Post Office boxes), business location, telephone number, name and address of the person in charge of the local office of such corporation, if any, and the names and addresses of the registered agent, all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
4. Name, address, and telephone number of the property manager, if applicable; (No Post Office boxes)
5. Street address of the rental unit;
6. Number of person(s) occupying the rental unit;
7. Whether there has been a change of occupancy or an additional tenant of the rental unit since the date of last registration;
8. Signature of the owner or owner's agent; and
9. Signature of the primary or principal tenant.

(c) The designated City official shall cause a general inspection of the rental unit. After the inspection the City Official will either issue a certificate of registration or provide notification to the owner that the application does not comply with the requirement or that the rental unit does not comply with building and maintenance code requirements.

(d) A certificate of registration shall expire on March 31 of each year.

(e) Registration is not assignable or transferable, and shall be reapplied for with each change in ownership or transfer of title.

(f) Nothing in this chapter shall be construed to proscribe and/or eliminate any requirements in Chapter 1323 of the Codified Ordinances, entitled "Certificate of Occupancy" from being fulfilled.

1414.04 RENTAL REGISTRATION RENEWAL.

(a) The owner of the rental unit shall renew the registration of a rental unit on or before March 1st of each year. At the time of renewal, on a form prescribed by the Building Commissioner, the owner shall supplement the information provided to reflect any changes in tenants or otherwise from the initial application. The renewal shall be received by March 1st, and the fee for said renewal shall be one hundred dollars (\$100.00) per unit. Any renewal fee received after March 1st shall be assessed a late fee of three hundred dollars (\$300.00) per unit.

(b) If there are any changes from the original application, the registration becomes null and void and the owner of the rental unit shall be required to register for a new application.

1414.05 INSPECTION REQUIREMENTS.

(a) The designated City official shall be authorized to make or cause to be made inspections once every year. In order to verify and ensure compliance with building and maintenance code requirements such inspections may also be made whenever the designated City official has reasonable cause to believe that any violations of this code exists therein or thereon.

1414.06 VOIDING REGISTRATIONS.

Any rental registration shall be null and void if:

(a) The rental unit for which the registration was granted and the use to which it is put does not comply in all respects with this code and with all other applicable laws and ordinances;

(b) Any false statement or representation has been made by the applicant or owner in connection with the application or issuance of the rental registration;

(c) The owner of the registration does anything prohibited by this code or by any other law or ordinance relating to such building or its use; or

(d) An owner or tenant fails to allow and cooperate with the designated City official conducting inspections as set forth herein.

1414.07 RULES AND REGULATIONS.

The Building Commissioner shall have the power to adopt rules and regulations not inconsistent with the terms of this Chapter for carrying out and enforcing the payment, collection and remittance of the fee herein levied, and the enforcement of the registration and inspection process. Copies of which rules and regulations shall be made available in the office of the Building Commissioner. The Building Commissioner shall have the authority to amend the rules and regulations of the rental registration. Such amendments to the rental registration shall be given by public notice 30 days prior to the effective date of change.

1414.08 ECONOMIC DEVELOPMENT FUND.

Revenues collected from rental registration fees shall be placed in the Economic Development Fund.

1414.99 PENALTIES.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree, punishable under Chapter 501 of the Codified Ordinances. A separate violation shall be committed for each rental unit not properly registered, even if owned by one owner.

is hereby amended to read:

1414 RESIDENTIAL RENTAL HOUSING REGISTRATION

1414.01 PURPOSE.

The purposes of this chapter are to protect the public health, safety and welfare by establishing residential rental housing registration, to impose certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the exterior inspection of rental housing properties; to provide for the issuance of a rental license; to establish a fee schedule for inspection and to fix penalties for violations of this chapter. This chapter is hereby declared to be remedial and essential for the public interest, and it is intended that this chapter be liberally construed to effectuate the purposes as stated herein.

1414.02 DEFINITIONS.

As used in this Chapter:

(a) DESIGNATED CITY OFFICIAL: Means the Building Commissioner of the City of Brook Park, Ohio and/or his/her designee.

(b) DWELLING: Means any building or portion of a building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that is occupied for living purposes.

(c) DWELLING UNIT: Means a space within a dwelling, comprised of a living, cooking and dining area, a sleeping room or rooms, storage closets and bathing and toilet facilities, all used

by only one family.

(d) OWNER: Means the person claiming, or in whom is invested, the ownership, dominion, or title of real property including but not limited to: holder of fee-simple title, holder of life-estate, holder of leasehold estate for an interim term of five years or more; a buyer under contract for deed; a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of leasehold estate or a tenancy for initial term of less than five years.

(e) PERSON: Means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest or any other legal or community entity.

(f) PROPERTY MANAGER: Means a person other than the owner that has managing control of a rental unit.

(g) RENT: Means the offering, holding out or actual leasing of a rental unit to an occupant other than the owner and generally involves the payment of a rental amount although other forms of consideration may be involved or no consideration at all may be involved.

(h) RENTAL UNIT: Means any dwelling unit; or any rented room within a single family or two family dwelling, duplex, condominium or townhouse where either money or other valuable consideration is paid for occupancy of such unit, or a person, not the record owner, is occupying the unit, whether or not such person pays money or other valuable considerations therefore.

(i) TENANT: Means any person who rents or leases a rental unit for living or dwelling purposes with the consent of the landlord.

(j) INSPECTION: The scope of the inspection shall be limited to such areas as are in plain view.

1414.03 RENTAL REGISTRATION REQUIREMENTS AND FEES.

(a) Each owner of a rental unit within the City shall register each such rental unit with the designated City official within 30 days of the effective date of this Ordinance and shall renew such registration annually. Each new owner of a rental unit within the City shall make application for registration with the designated City official within 30 days after the date of acquiring ownership of a rental unit. A separate registration shall be required for each rental unit.

1. Each application for rental registration shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) per rental unit with a maximum fee for rental units of two thousand dollars (\$2,000.00).
2. If an owner fails to timely register a rental unit, the registration fee shall be tripled per unit. The owner shall also be subject to the penalty provisions as set

forth below.

(b) Application for rental registration shall be made upon a form provided by the City for such purpose, and shall indicate at least the following information:

1. Owner's name, address, and work and home telephone number. No post office boxes will be accepted. A state of Ohio photo identification will be required for identification purposes only;
2. If owner is a partnership, the name and address of all partners, the principal business address, and telephone number of each partner;
3. If owner is a corporation, the person registering must state whether it is organized under the laws of this State or is a foreign corporation, and must show the mailing address (No Post Office boxes), business location, telephone number, name and address of the person in charge of the local office of such corporation, if any, and the names and addresses of the registered agent, all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
4. Name, address, and telephone number of the property manager, if applicable; (No Post Office boxes)
5. Street address of the rental unit;
6. Number of person(s) occupying the rental unit;
7. Whether there has been a change of occupancy or an additional tenant of the rental unit since the date of last registration;
8. Signature of the owner or owner's agent; and
9. Signature of the primary or principal tenant.

(c) The designated City official shall cause a general exterior inspection of the rental unit. After the inspection the City Official will either issue a certificate of registration or provide notification to the owner that the application does not comply with the requirement or that the rental unit does not comply with building and maintenance code requirements.

(d) A certificate of registration shall expire on March 31 of each year.

(e) Registration is not assignable or transferable, and shall be reapplied for with each change in ownership or transfer of title.

(f) Nothing in this chapter shall be construed to proscribe and/or eliminate any requirements in Chapter 1323 of the Codified Ordinances, entitled "Certificate of Occupancy" from being fulfilled.

1414.04 RENTAL REGISTRATION RENEWAL.

(a) The owner of the rental unit shall renew the registration of a rental unit on or before March 1st of each year. At the time of renewal, on a form prescribed by the Building Commissioner, the owner shall supplement the information provided to reflect any changes in tenants or otherwise from the initial application. The renewal shall be received by March 1st, and the fee for said renewal shall be one hundred dollars (\$100.00) per unit. Any renewal fee received after March 1st shall be assessed a late fee of three hundred dollars (\$300.00) per unit..

(b) If there are any changes from the original application, the registration becomes null and void and the owner of the rental unit shall be required to register for a new application.

1414.05 INSPECTION REQUIREMENTS.

(a) The designated City official shall be authorized to make or cause to be made inspections once every year. In order to verify and ensure compliance with the property maintenance code requirements such inspections may also be made whenever the designated City official has reasonable cause to believe that any violations of this code exists therein or thereon.

1414.06 VOIDING REGISTRATIONS.

Any rental registration shall be null and void if:

(a) The rental unit for which the registration was granted and the use to which it is put does not comply in all respects with this code and with all other applicable laws and ordinances;

(b) Any false statement or representation has been made by the applicant or owner in connection with the application or issuance of the rental registration;

(c) The owner of the registration does anything prohibited by this code or by any other law or ordinance relating to such building or its use; or

1414.07 RULES AND REGULATIONS.

The Building Commissioner shall have the power to adopt rules and regulations not inconsistent with the terms of this Chapter for carrying out and enforcing the payment, collection and remittance of the fee herein levied, and the enforcement of the registration and inspection process. Copies of which rules and regulations shall be made available in the office of the Building Commissioner. The

Building Commissioner shall have the authority to amend the rules and regulations of the rental registration. Such amendments to the rental registration shall be given by public notice 30 days prior to the effective date of change.

1414.08 ECONOMIC DEVELOPMENT FUND.

Revenues collected from rental registration fees shall be placed in the Economic Development Fund.

1414.100 PENALTIES.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree, punishable under Chapter 501 of the Codified Ordinances. A separate violation shall be committed for each rental unit not properly registered, even if owned by one owner.

SECTION 2: Former Section 1414 of the Brook Park Codified Ordinance as passed by 9897-2014, passed April 5, 2014 is hereby expressly repealed.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees 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: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and to enact Chapter 1414 of the Park Codified Ordinances; therefore provided this Resolution receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

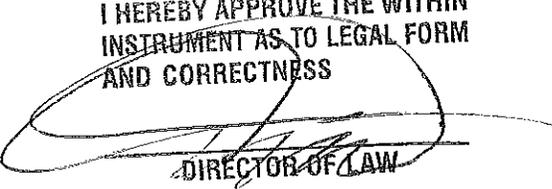
PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

APPROVED: _____
MAYOR

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS

DATE


DIRECTOR OF LAW

CITY OF BROOK PARK, OHIO

P/C 12/18/18 Service
Caucus 1/15/19
1st R 1/22/19
2nd R
3rd R
B/C

ORDINANCE NO. 11060-2019

INTRODUCED BY: MAYOR GAMMELLA

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT OF COOPERATION WITH THE COUNTY OF CUYAHOGA
FOR THE RESURFACING OF SHELDON ROAD (COUNTY ID #1224)
AND DECLARING AN EMERGENCY**

An emergency ordinance enacted by the City of Brook Park, Cuyahoga County, Ohio hereinafter referred to as the MUNICIPALITY, in the matter of the hereinafter described improvement and requests the cooperation of the County of Cuyahoga, Ohio, hereinafter referred to as the COUNTY

WHEREAS, the MUNICIPALITY has recognized the need for and proposes the improvement of a portion of public highway which is described as follows:

The resurfacing of Sheldon Road, Eastland Road to Harrow Road in the Cities of Brook Park and Middleburg Heights.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Brook Park, State of Ohio, that:

A. CONSENT

1. That it is declared to be in the public interest that the consent of said MUNICIPALITY be and such consent is hereby given to the COUNTY to participate in the cost of construction of the above described improvement.

B. COOPERATION

1. That the COUNTY and the MUNICIPALITY will cooperate in the resurfacing of Sheldon Road, Eastland Road to Harrow Road in the Cities of Brook Park and Middleburg Heights.
2. That the MUNICIPALITY will prepare construction plans and specifications, including necessary engineering reports, which shall conform to generally accepted engineering practices and principles.
3. That the MUNICIPALITY will arrange for the supervision and administration of the construction contract.

4. That the COUNTY will review the construction plans for conformance with section B-2 of this Ordinance. County approval of plans and specifications is required prior to the award of the construction contract. The COUNTY will make an inspection of the completed project.
5. That the MUNICIPALITY shall agree to provide the COUNTY with a complete set of as-built plans upon the completion of the project.

C. FUNDING

1. That the MUNICIPALITY hereby agrees to participate with the COUNTY in the cost of the improvement by an allocation from the County Motor Vehicle License Tax Fund to pay the COUNTY portion of the project.
2. That the COUNTY shall contribute fifty percent (50%) of the cost construction which is determined to be eligible by the Cuyahoga County Engineer's policies up to a maximum of \$250,000. The anticipated construction cost for this project is \$641,803. To determine funding eligibility, the COUNTY shall be notified immediately of any significant changes to the scope of work and/or construction cost.

D. MAINTENANCE

That upon completion of said improvement, said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Maintain the improvement in accordance with the provisions of the statutes relating thereto and make ample financial provisions for such maintenance; and
2. Maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the COUNTY and hold said right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands or other private installations within the right-of-way limits; and
3. That the COUNTY shall continue to maintain the structural elements of any bridge (defined as a structure with a span of twenty feet or greater) located within the limits of the improvement in accordance with the applicable sections of the Ohio Revised Code.
4. After construction of the project is complete, the Municipality agrees to follow and maintain post-construction Best Management Practices as outlined in the Municipal Storm Water Permit that is filed with the Ohio Environmental Protection Agency (O.E.P.A.).

E. TRAFFIC

That upon completion of said improvement said MUNICIPALITY will thereafter keep said highway open to traffic at all times; and

1. Place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code; and
2. That the street or highway shall be and hereby is designated a through highway as provided in Section 4511.07(A)(6) Ohio Revised Code; and
3. Stop signs affecting the movement of traffic on said street or highway within the roadway being improved shall be removed, and no stop signs shall be erected on same except at its intersection with another through highway where traffic does not warrant the installation of a traffic control signal but where the warrants for a "Four-way Stop" as provided in the aforesaid Manual are met; and
4. That no rule or regulation shall be enacted restricting the use of the improved road and/or structure by any class of vehicle or vehicle load permitted by the Ohio Revised Code to use a public highway. Any existing rule or regulation so restricting road usage shall be rescinded; and
5. The MUNICIPALITY shall regulate parking in the following manner:
Prohibit parking in accordance with Section 4511.66 of the Ohio Revised Code unless otherwise controlled by local ordinance or resolution.

F. RIGHT-OF-WAY

1. That all existing street and public right-of-way within the MUNICIPALITY which is necessary for the aforesaid improvement shall be made available therefore.
2. That the MUNICIPALITY will arrange for the acquisition of any additional right-of-way which may be required for the construction of the improvement.

G. UTILITIES

1. That the MUNICIPALITY will make arrangements with and obtain agreements from all privately owned public utility companies whose lines or structures will be affected by the said improvement, and said companies have agreed to make any and all necessary rearrangements in such a manner as to be clear of any construction called for by the plans of said improvement, and said companies have agreed to make such necessary rearrangements immediately after notification by said MUNICIPALITY.

2. That the COUNTY will participate in the cost of alterations of governmentally-owned utility facilities which come within the provisions of Section 8204 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual to the same extent that it participates in the other costs of the project, provided, however, that such participation will not extend to any additions or betterments of existing facilities.
3. That it is hereby agreed that the MUNICIPALITY shall, at its own expense, make all rearrangements of governmentally-owned utilities and/or appurtenances thereto which do not comply with the provisions of Section 8204 (Utility Reimbursement Eligibility) of the Ohio Department of Transportation's Real Estate Policies and Procedures Manual, whether inside or outside the corporate limits, as may be necessary to conform to the said improvement.
4. That the construction, reconstruction, and/or rearrangement of all utilities shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement, and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provision of the Ohio Department of Transportation Construction and Material Specifications.

H. MISCELLANEOUS

1. That if the MUNICIPALITY includes the construction of sanitary sewers, waterlines, area sewers (drainage of area surrounding the improvement), alternate bid items, or other items in the improvement that are in addition to those now existing and not provided for elsewhere in this Ordinance, the MUNICIPALITY agrees to pay, or make arrangements for the payment of, the cost of said additional construction, the cost of preliminary and design engineering and construction supervision.
2. That the MUNICIPALITY shall be solely responsible for the certifications or obligations made or agreed to in Sections F-1, F-2, G-1, G-3, and G-4, and hereby agrees that the COUNTY shall be and is hereby released from any and all damages or claims of the MUNICIPALITY arising from or growing out of the certification or obligations made or agreed to in said Sections F-1, F-2, G-1, G-3, and G-4 hereinabove.
3. For matters relating to this improvement, the agent for the COUNTY and liaison officer on the matter contained herein shall be the County Engineer of Cuyahoga County, Ohio, and/or such members of his staff as he may designate.

4. By enacting this Ordinance, the MUNICIPALITY agrees to conduct this transaction by electronic means and agrees that all documents requiring County signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The MUNICIPALITY also agrees on behalf of the aforementioned entities and persons to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

I. AUTHORITY TO SIGN

1. That the Mayor of said MUNICIPALITY is hereby empowered and directed on behalf of the MUNICIPALITY to enter into agreements with the COUNTY necessary to complete the planning and construction of this improvement.
2. That the Mayor of said MUNICIPALITY is hereby empowered and directed on behalf of the MUNICIPALITY to make application to the County of Cuyahoga, Ohio, for approval to use County Motor Vehicle License Tax Funds for the improvement.

J. OPEN MEETINGS

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees 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.

K. EMERGENCY MEASURE

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of said City, therefore, provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately from and after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

DATE

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I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS



DIRECTOR OF LAW

CERTIFICATE OF COPY

State of Ohio)
County of Cuyahoga)
City of Brook Park)

I, _____, as Clerk of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the legislative Authority of the said municipality on the _____ day of _____, 20____, that the publication of such Ordinance has been made certified of record according to law; that no proceedings looking to a referendum upon such Ordinance have been taken; and that such Ordinance and certificate of publication thereof are of record in Ordinance Record No. _____, Page _____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, this _____ day of _____, 20____.

Clerk of Council
City of Brook Park, Ohio