

CITY OF OAKWOOD  
COUNCIL AGENDA  
NOVEMBER 2, 2020

7:30 P.M.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. MINUTES OF OCTOBER 5 REGULAR SESSION & WORK SESSION AND OCTOBER 26 EXECUTIVE SESSION
- V. STATUS REPORTS
  - Scarecrow Row Contest Winners
  - 2020 Beautification Award Winners
- VI. VISITORS
- VII. LEGISLATION
  - An Ordinance to amend 2020 appropriations to address additional Coronavirus funds, Vice Mayor Byington
  - A Resolution addressing the use of CARES Act funding for personnel costs, Vice Mayor Byington
  - An Ordinance to approve updates to the Traffic and General Offenses Codes, Mr. Stephens
- VIII. CITY MANAGER'S REPORT
- IX. COUNCIL COMMENTS
- X. ADJOURN

NEXT REGULAR SESSION SCHEDULED FOR DECEMBER 14, 2020

AN ORDINANCE

BY: \_\_\_\_\_ NO. \_\_\_\_\_

TO AMEND SECTION I, 2020 ORIGINAL APPROPRIATION ORDINANCE NO. 4897 AND SUPPLEMENTAL APPROPRIATION ORDINANCES NO. 4912, 4917, 4920, AND 4922 TO PROVIDE FOR THE APPROPRIATION OF:

1. AN ADDITIONAL AMOUNT OF \$322,515.41 TO BE EXPENDED FROM THE LOCAL CORONAVIRUS RELIEF FUND TO COVER COSTS CONSISTENT WITH THE REQUIREMENTS OF SECTION 5001 OF THE CARES ACT;

FOR THE CITY OF OAKWOOD, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020.

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

WHEREAS, through several sequential pieces of legislation, including House Bill 481, Senate Bill 310, and House Bill 614 of the 133<sup>rd</sup> General Assembly, the Ohio General Assembly has established a process for distributing funds provided by the CARES Act, including funds that will be distributed to local municipalities to reimburse certain unbudgeted expenditures associated with the city’s COVID-19 mitigation and response; and

WHEREAS, Oakwood’s maximum eligibility for reimbursement was \$192,992.60, which was the subject of supplemental appropriation ordinance No. 4917 and 4920, but has now been increased by \$322,015.41, for a total reimbursement eligibility of \$515,008.01 plus up to \$500.00 in interest accruing thereon; and

WHEREAS, in order to make the additional funds available for use, it is necessary for Council to authorize the same via this additional supplemental appropriation ordinance;

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

SECTION I.

To provide for the current expenses and other expenditures of the said city of Oakwood during the period commencing January 1, 2020 and ending December 31, 2020, the following revised sums shall be and they are hereby set aside and appropriated as follows, with added material in **bold** type, deleted material in ~~strike through~~ type, and dicta/commentary in *italic* type:

Fund		Appropriation
312 Local Coronavirus Relief Fund	<del>\$192,992.60</del>	<b>\$515,508.01</b>

SECTION II.

The Director of Finance is hereby authorized to draw warrants for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefore, approved by this ordinance of Council to make the expenditures; provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance.

SECTION III.

This ordinance, as an appropriation to meet current expenses of the City, takes effect immediately upon its passage as provided by Section 3.04 of the City Charter.

PASSED BY THE COUNCIL OF THE CITY OF OAKWOOD, this \_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor William D. Duncan

ATTEST:

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CLERK OF COUNCIL

TO THE CLERK:

Please publish the foregoing Ordinance in the following summary form:

LEGAL NOTICE

Ordinance \_\_\_\_\_ of the Council of the city of Oakwood, Ohio was passed on the \_\_\_ day of \_\_\_\_\_, 2020. Said ordinance was enacted to make a supplemental appropriation for current expenses of the city of Oakwood, Ohio, for the period ending December 31, 2020.

LORI STACEL  
CLERK OF COUNCIL

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City Attorney Robert F. Jacques

CERTIFICATION OF PUBLICATION

I, Lori Stacel, Clerk of Council of the city of Oakwood, State of Ohio, hereby certify that the foregoing Ordinance was duly published in summary form in The Oakwood Register, a newspaper of general circulation in said city of Oakwood, and that said publication occurred on the following date:

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Lori Stacel, Clerk of Council

A RESOLUTION

BY: \_\_\_\_\_

NO. \_\_\_\_\_

FINDING THAT PUBLIC SAFETY PERSONNEL ARE SUBSTANTIALLY DEDICATED TO MITIGATING OR RESPONDING TO THE COVID-19 PUBLIC HEALTH EMERGENCY.

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the CARES Act) was signed into law by the President of the United States on March 27, 2020; and

WHEREAS, Ohio’s 133<sup>rd</sup> General Assembly has adopted three bills referenced collectively herein as the “State CARES Act Legislation,” namely, House Bill 481 (“H.B. 481”), Senate Bill 310 (“S.B. 310”), and House Bill 614 (“H.B. 614”), to establish a process for distributing CARES Act funds to local municipalities; and

WHEREAS, the State CARES Act Legislation requires municipalities receiving funds under Section 1 of the CARES Act to pass a resolution affirming that CARES Act funds may be expended only to cover costs of the municipality consistent with the requirements of Section 5001 of the CARES Act, as described in 42 U.S.C. §801(d), and any applicable regulations, before receiving said funds; and

WHEREAS, on July 20, 2020, this Council adopted Resolution No. 1874, affirming that CARES Act funds may be expended only to cover costs of the municipality consistent with the requirements of Section 5001 of the CARES Act, as described in 42 U.S.C. §801(d), and any applicable regulations and guidance; and

WHEREAS, on October 5, 2020, this Council adopted Resolution No. 1879, reaffirming the same; and

WHEREAS, the Ohio Office of Budget and Management (“OBM”), in its Guidance & Frequently Asked Questions, updated August 28, 2020, (“OBM Guidance”) directed local jurisdictions to “evaluate all proposed expenditures based on guidance contained within the U.S. Department of Treasury Guidance and Coronavirus Relief Fund Frequently Asked Questions;” and

WHEREAS, the OBM Guidance further advised that “it is presumed for administrative convenience that personnel costs related to [public safety] are substantially dedicated” for purposes of the CARES Act unless the chief executive of the entity receiving the funds determines otherwise; and

WHEREAS, the United States Department of the Treasury (“Treasury”), in its Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, dated September 2, 2020, (“Treasury Guidance”) advised that “[p]ayroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency” are eligible expenditures of CARES Act funds; and

WHEREAS, the Treasury Guidance further advised that local governments may presume that “public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employee is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020”; and

WHEREAS, the Treasury Guidance further advised that “public safety employees” include “police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel”;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAKWOOD, MONTGOMERY COUNTY, OHIO:

SECTION I.

In reliance on the OBM Guidance and the Treasury Guidance, specifically including but not limited to such portions as are quoted herein, and having examined the circumstances of the city of Oakwood, this Council finds and determines that the Treasury presumption applies, namely, that city of Oakwood public safety employees meet the “substantially dedicated” test and no specific circumstances rebut the presumption. This Council further finds and determines that the following city of Oakwood public safety positions are substantially dedicated to mitigating or responding to the COVID-19 public health emergency:

- Public Safety Dispatchers;
- Public Safety Officers;
- Public Safety Lieutenants;
- Public Safety Captains;
- Public Safety Director.

SECTION II.

While this Council has determined that the presumption and lack of rebutting circumstances described in Section I apply to all city of Oakwood public safety positions set forth therein, Council further determines that CARES Act funds shall be expended first to cover the payroll and benefits of one (1) public safety employee who holds a paramedic certification and one (1) public safety employee who holds an emergency medical technician (EMT) certification, per shift, for the period that begins on March 1, 2020, and ends on December 30, 2020, on the basis that such employees are responsible for leading the Oakwood Public Safety Department’s emergency response capability for each such shift, consistent with accepted industry standards for the deployment of emergency medical response vehicles and equipment.

SECTION III.

Based on the determinations set forth in Sections I and II above, any current and/or future distributions of CARES Act funds to the city of Oakwood may be expended to cover the payroll and benefits of the public safety positions set forth in Section I, for the period that begins on March 1, 2020, and ends on December 30, 2020. Such funds shall be utilized first to cover payroll and benefit expenses for employees described in Section II, with remaining funds, if any, to be applied to cover payroll and benefit expenses for any other employee described in Section I.

SECTION IV.

The financial accounting system used by the city of Oakwood does not normally utilize purchase orders for the encumbrance of payroll and benefit expenses because they are not “purchases” in a traditional sense. However, language in the CARES Act, as well as applicable regulations and guidance, appears to require reimbursable expenses to be encumbered and made in the same manner as all other purchases. To comply with this requirement, Council hereby authorizes and directs the Director of Finance to create one or more purchase orders within the city’s financial accounting system as necessary to ensure the city’s maximum eligibility for CARES Act reimbursements contemplated by this resolution.

SECTION V.

This resolution shall take effect as of the day of its passage.

PASSED BY THE COUNCIL OF THE CITY OF OAKWOOD, this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor William D. Duncan

ATTEST:

\_\_\_\_\_  
Clerk of Council

TO THE CLERK:

No publication is required.

\_\_\_\_\_  
City Attorney Robert F. Jacques

AN ORDINANCE

BY: \_\_\_\_\_

NO. \_\_\_\_\_

TO APPROVE CURRENT REPLACEMENT PAGES TO THE OAKWOOD TRAFFIC AND GENERAL OFFENSES CODES.

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council; and

WHEREAS, such revision is presently before Council in the form of 2020 replacement pages to the Traffic and General Offenses Codes;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAKWOOD, OHIO, THAT:

SECTION I.

The following sections of the Oakwood Traffic and General Offenses Codes are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

- 331.41 Wearing Earplugs or Earphones Prohibited. (Amended)
- 335.09 Display of License Plates or Validation Stickers; Temporary License Placard. (Amended)
- 335.091 Operating Without Dealer or Manufacturer License Plates. (Added)
- 373.02 Riding Upon Seats; Handlebars: Helmets and Glasses. (Amended)

General Offenses Code

- 505.04 Abandoning Animals. (Amended)
- 537.16 Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternate Nicotine Products. (Amended)
- 537.17 Reserved. (Previously "Criminal Child Enticement")

SECTION II.

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 Oakwood, Ohio, so as to conform to the classification and numbering system of the Codified Ordinances, to-wit:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
4919	7-20-20	375.10
4918	10-5-20	521.12
4902	1-6-20	505.10, 549.01 to 549.03, 549.99

SECTION III.

The complete text of the Traffic and General Offenses Code sections listed above are set forth in full in the current replacement pages to the Traffic and General Offenses Code. The publication of the 2020 replacement pages within the Codified Ordinances shall be deemed sufficient publication of all material contained therein as provided by Section 3.05(1) of the Charter.

SECTION IV.

This ordinance shall be and remain in force from and after the earliest period allowed by law.

PASSED BY THE COUNCIL OF THE CITY OF OAKWOOD THIS \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor William D. Duncan

ATTEST:

\_\_\_\_\_  
Clerk of Council

TO THE CLERK: Please publish by including the 2020 Replacement Pages in the Codified Ordinances of this City.

\_\_\_\_\_  
City Attorney Robert F. Jacques

## APPENDIX A

### Traffic Code

- 331.41 Wearing Earplugs or Earphones Prohibited. (Expands definitions for earphones and earplugs. Adds exception for hearing protection while operating a motorcycle.)
- 335.09 Display of License Plates or Validation Stickers; Temporary License Placard. (License plate, temporary license placard, and validation stickers to be displayed on the rear of vehicle.)
- 335.091 Operating Without Dealer or Manufacturer License Plates. (Adds new section regulating operating a manufacturer or dealer vehicle without license plates or placards.)
- 373.02 Riding Upon Seats; Handlebars; Helmets and Glasses. (Adds exceptions for autocycles and cab-enclosed motorcycles; adds standard for protective helmets.)

### General Offenses Code

- 505.04 Abandoning Animals. (Amended to update penalty wording to match ORC and ORC reference.)
- 537.16 Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternate Nicotine Products. (Completely rewrites section to comply with current State law; raises legal age to purchase tobacco; includes regulations for “transaction scans”.)
- 537.17 Criminal Child Enticement. (Deleted. This section was based on ORC 2905.05. The Ohio Supreme Court held that ORC 2909.05(A) was unconstitutionally overbroad in violation of the First Amendment.)