ORDINANCE NO. 84-17

**AN ORDINANCE TO AMEND SECTION 238.055 OF
OF THE CODIFIED ORDINANCES OF THE CITY OF AVON RELATING
TO INVESTMENTS OF PUBLIC MONEYS
AND DECLARING AN EMERGENCY**

WHEREAS, the Finance Director has the authority to deposit and invest public moneys in accordance with the provisions of Chapter 238 of the Avon Codified Ordinances; and

WHEREAS, Council's Finance Committee met on August 7, 2017 and considered various requests by the Finance Director to add certain eligible investments set forth in §238.055; and

WHEREAS, Finance Committee unanimously recommended the changes proposed by the Finance Director and Council hereby deems it desirable for the safety, health and welfare of the Community to amend the provisions of Chapter 238 and thereby increase efficiency in the City's deposit and investment strategies.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

<u>Section 1</u> - That Section 238.055 of the Codified Ordinances, which presently reads as follows:

238.055 ELIGIBLE INVESTMENTS.

(a) The Director of Finance or the Director's designee may invest in any of the following classifications of obligations which are hereby determined to be eligible for investment of the public moneys of the City ("eligible investments"):

(1) United States Treasury bills, notes and bonds (excluding stripped principal or interest obligations of such issuances), or any other obligation or security issued by the United States Treasury, or any other obligation guaranteed as to principal and interest by the United States;

(2) A written repurchase agreement between the Director of Finance or such Director of Finance's designee and any eligible depository if, and only if, under the terms of such agreement, the Director of Finance or such Director of Finance's designee purchases for the City and such institution agrees unconditionally to repurchase, within a period of not more than thirty days, securities described in paragraph (a)(1) hereof that will mature or are redeemable within five years from the date of purchase, provided that:

A. The market value of such securities, subject to a repurchase agreement that matures on the business day immediately succeeding the business day on which such repurchase agreement was entered into, shall be at least 102 percent of the principal amount of the repurchase agreement, and, on any other business day after the business day described in the immediately preceding item, shall be at least 102 percent of the principal amount of the repurchase agreement; and

B. The repurchase agreement shall contain the requirement that, for each transaction pursuant to such agreement, the eligible depository shall provide all of the following information:

1. The par value of the securities subject to such agreement;
2. The type, coupon rate, if any, and maturity date of the securities; and

3. A numerical identifier generally accepted in the securities industry that designates the securities; and

(3) Bonds, notes, debentures, or other obligations or securities issued by any federal government agency or instumentality, including but not limited to Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), and Federal Home Loan Mortgage Corporation (FHLMC). All such securities shall be direct issuances of federal government agencies or instrumentalities; and

(4) STAR Ohio; and

(5) Deposits or savings accounts in duly authorized depositories which have an executed and approved depository agreement in effect with the City, provided those deposits and accounts are properly insure or collateralized pursuant to Ohio R.C. 135.18 and other sections as appropriate. Deposits in the Certificate of Deposit Account Registry Service (CDARS) and any other program that is deemed to meet the requirements of Ohio R.C. 135.144 or 135.145 are also authorized.

(6) No-load money market mutual funds consisting exclusively of obligations described in divisions (1) and (3) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in Ohio R.C. 135.03; and

(7) General obligation bonds and notes of the State of Ohio; and

(8) General obligation bonds and notes of any municipal corporation, including the City of Avon, or any county, township or other political subdivisions of the State of Ohio rated Aa2 or better by a nationally recognized rating agency with respect to such bonds or notes as to which there is no default of principal, interest or coupons, provided, however, that bonds and notes of the City of Avon shall not be required to have a rating in order to be an eligible investment of the City of Avon's Investment Policy; and

(9) STAR Plus.

(b) The Director of Finance, the Director's designee, the Mayor and members of Council shall not be held accountable or personally liable for any loss occasioned by the sale of any eligible investment authorized pursuant to subsection (a) hereof at prices lower than its cost or balance. Any loss or expense in making such sale shall be payable as other expenses of the City.

(c) The members of Council, the Mayor, the Director of Finance and such Director of Finance's designee shall not be personally liable for or with respect to the purchase of any eligible investment authorized as investments pursuant to subsection (a) hereof, and the members of Council and the Mayor shall not be personally liable for any unauthorized deposit or investment by the Director of Finance or such Director of Finance's designee.

(d) In the event of a vacancy in the office of the Director of Finance by reason of death, resignation, removal from office or otherwise, the Director of Finance or any acting or interim Director shall transfer and deliver to the Director's successor all eligible investments held by the Director or, in the case where the Eligible Investments are held in safekeeping by a qualified trustee, all records held by the Director evidencing ownership of such eligible investments and information describing the location of such eligible investments. For the eligible investments so transferred and delivered, such Director of Finance shall be credited with, and the Director's successor shall be charged with, the amount of money invested in such eligible investments.

(e) Whenever eligible investments acquired under this section mature and become due and payable, the Director of Finance shall present them for payment according to their tenor and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to the provisions of this section with respect to their reinvestment.

(f) The Director of Finance or the Director's designee shall maintain accounts in which the Director or the Director's designee shall make appropriate entries of all transactions relating to the investment of public moneys.

(g) Interest earned on any eligible investments authorized by this section shall be collected by the Director of Finance and credited by the Director to the proper fund of the City as required by law.

(Ord. 51-97. Passed 3-24-97; Ord. 97-08. Passed 8-11-08; Ord. 16-11. Passed 2-28-11; Ord. 65-12. Passed 6-11-12; Ord. 93-12. Passed 8-13-12; Ord. 66-16. Passed 5-23-16.)

Is hereby amended to read as follows: **(New Language in Bold Print)**

238.055 ELIGIBLE INVESTMENTS.

(a) The Director of Finance or the Director's designee may invest in any of the following classifications of obligations which are hereby determined to be eligible for investment of the public moneys of the City ("eligible investments"):

(1) United States Treasury bills, notes and bonds (excluding stripped principal or interest obligations of such issuances), or any other obligation or security issued by the United States Treasury, or any other obligation guaranteed as to principal and interest by the United States;

(2) A written repurchase agreement between the Director of Finance or such Director of Finance's designee and any eligible depository if, and only if, under the terms of such agreement, the Director of Finance or such Director of Finance's designee purchases for the City and such institution agrees unconditionally to repurchase, within a period of not more than thirty days, securities described in paragraph (a)(1) hereof that will mature or are redeemable within five years from the date of purchase, provided that:

A. The market value of such securities, subject to a repurchase agreement that matures on the business day immediately succeeding the business day on which such repurchase agreement was entered into, shall be at least 102 percent of the principal amount of the repurchase agreement, and, on any other business day after the business day described in the immediately preceding item, shall be at least 102 percent of the principal amount of the repurchase agreement; and

B. The repurchase agreement shall contain the requirement that, for each transaction pursuant to such agreement, the eligible depository shall provide all of the following information:

1. The par value of the securities subject to such agreement;
2. The type, coupon rate, if any, and maturity date of the securities; and
3. A numerical identifier generally accepted in the securities industry that designates the securities; and

(3) Bonds, notes, debentures, or other obligations or securities issued by any federal government agency or instumentality, including but not limited to Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), and Federal Home Loan Mortgage Corporation (FHLMC). All such securities shall be direct issuances of federal government agencies or instrumentalities; and

(4) STAR Ohio; and

(5) Deposits or savings accounts in duly authorized depositories which have an executed and approved depository agreement in effect with the City, provided those deposits and accounts are properly insure or collateralized pursuant to Ohio R.C. 135.18 and other sections as appropriate.

Deposits in the Certificate of Deposit Account Registry Service (CDARS) and any other program that is deemed to meet the requirements of Ohio R.C. 135.144 or 135.145 are also authorized.

(6) No-load money market mutual funds consisting exclusively of obligations described in divisions (1) and (3) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in Ohio R.C. 135.03; and

(7) General obligation bonds and notes of the State of Ohio; and

(8) General obligation bonds and notes of any municipal corporation, including the City of Avon, or any county, township or other political subdivisions of the State of Ohio rated Aa2 or better by a nationally recognized rating agency with respect to such bonds or notes as to which there is no default of principal, interest or coupons, provided, however, that bonds and notes of the City of Avon shall not be required to have a rating in order to be an eligible investment of the City of Avon's Investment Policy; and

(9) STAR Plus.

(b) The Director of Finance, the Director's designee, the Mayor and members of Council shall not be held accountable or personally liable for any loss occasioned by the sale of any eligible investment authorized pursuant to subsection (a) hereof at prices lower than its cost or balance. Any loss or expense in making such sale shall be payable as other expenses of the City.

(c) The members of Council, the Mayor, the Director of Finance and such Director of Finance's designee shall not be personally liable for or with respect to the purchase of any eligible investment authorized as investments pursuant to subsection (a) hereof, and the members of Council and the Mayor shall not be personally liable for any unauthorized deposit or investment by the Director of Finance or such Director of Finance's designee.

(d) In the event of a vacancy in the office of the Director of Finance by reason of death, resignation, removal from office or otherwise, the Director of Finance or any acting or interim Director shall transfer and deliver to the Director's successor all eligible investments held by the Director or, in the case where the Eligible Investments are held in safekeeping by a qualified trustee, all records held by the Director evidencing ownership of such eligible investments and information describing the location of such eligible investments. For the eligible investments so transferred and delivered, such Director of Finance shall be credited with, and the Director's successor shall be charged with, the amount of money invested in such eligible investments.

(e) Whenever eligible investments acquired under this section mature and become due and payable, the Director of Finance shall present them for payment according to their tenor and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to the provisions of this section with respect to their reinvestment.

(f) The Director of Finance or the Director's designee shall maintain accounts in which the Director or the Director's designee shall make appropriate entries of all transactions relating to the investment of public moneys.

(g) Interest earned on any eligible investments authorized by this section shall be collected by the Director of Finance and credited by the Director to the proper fund of the City as required by law.

(h) Diversification and Investment Choices. The City purchases investments through Fifth Third Securities, Huntington Investments, KeyBank Capital Markets and Vining-Sparks IBG, L.P. The Director of Finance and the Assistant Director of Finance base purchases on the best interest rates available while keeping an even distribution of monies between banks.

(i) Internal Controls. A listing by bank of investments purchased, with dates of maturity, serial numbers/cusip numbers, interest rates and length of investment is maintained and updated for all changes in investments. This schedule is prepared by the Director of Finance. The Treasurer reviews this schedule monthly, along with the related bank statements as part of the monthly bank reconciliations. In addition, investment balances by bank are reconciled monthly by the Assistant Director of Finance.
(Ord. 51-97. Passed 3-24-97; Ord. 97-08. Passed 8-11-08; Ord. 16-11. Passed 2-28-11; Ord. 65-12. Passed 6-11-12; Ord. 93-12. Passed 8-13-12; Ord. 66-16. Passed 5-23-16.)

Section 2 - That it is 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 of any of its committees that resulted in such formal actions 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 preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to add certain eligible investments set forth in §238.055; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: ______________________ DATE SIGNED: ____________________________

By: ____________________________________
Craig Witherspoon, President of Council

DATE APPROVED BY THE MAYOR ___________________

____
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

____
John A. Gasior, Law Director

ATTEST:

____
Barbara Brooks
Clerk of Council

POSTED:______________________
In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director