

ORDINANCE NO. 66-16

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 238 OF
OF THE CODIFIED ORDINANCES OF THE CITY OF AVON RELATING
TO DEPOSITS AND 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 May 16, 2016 and considered various requests by the Finance Director to amend certain sections of Chapter 238 to allow the City to retain the services of an investment advisor under §238.05(e) and to clarify certain eligible investments set forth in §238.055(a)(3),(5) and (6); 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:

Section 1 - That Section 238.015 of the Codified Ordinances, which presently reads as follows:

238.015 DEFINITIONS RELATING TO SECTIONS 238.05 and 238.055 ONLY.

(a) As used in Sections [238.05](#) and [238.055](#), unless otherwise defined therein:

- (1) "Derivative security" shall mean a financial instrument, shall contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract or obligation itself, but shall not include a written repurchase agreement that satisfies the provisions of Section [238.055](#)(a)(2).
- (2) "Eligible depository" shall mean any institution described in Ohio R.C. 135.03.
- (3) "Eligible investment" shall mean any investment described in Section [238.055](#)(a).
- (4) "Investment pool" shall mean a fund established by another subdivision (including a county), the Director of Finance, the governing board or the investing authority (as each of those terms is defined in Ohio R.C. 135.01), if that fund was established for the purpose of investing the public moneys of other subdivisions, but shall not include STAR Ohio.
- (5) "Public moneys" shall mean all moneys in the Treasury of the City or moneys coming lawfully into the possession of the Director of Finance.
- (6) "Qualified securities dealer" shall mean the Treasurer of the State of Ohio for the purposes of investments in STAR Ohio.

- (7) "Qualified Trustee" shall mean a qualified trustee as described in Ohio R.C. 135.18.
- (8) "Reverse repurchase agreement" shall mean a repurchase agreement under the terms of which the Director of Finance or such Director of Finance's designee agrees to sell securities owned by the City to a purchaser and agrees with that purchaser to unconditionally repurchase such securities.
- (9) "STAR Ohio" shall mean the Ohio Subdivision's Fund created pursuant to Ohio R.C. 135.45 and currently designated as "Star Treasury Asset Reserve of Ohio".
- (10) "Uniform Depository Act" shall mean Ohio R.C. Chapter 135 and all amendments thereto. (Ord. 51-97. Passed 3-24-97.)

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

238.015 DEFINITIONS RELATING TO SECTIONS 238.05 and 238.055 ONLY.

(a) As used in Sections [238.05](#) and [238.055](#), unless otherwise defined therein:

- (1) "Derivative security" shall mean a financial instrument, shall contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract or obligation itself, but shall not include a written repurchase agreement that satisfies the provisions of Section [238.055](#)(a)(2).
- (2) "Eligible depository" shall mean any institution described in Ohio R.C. 135.03.
- (3) "Eligible investment" shall mean any investment described in Section [238.055](#)(a).
- (4) "Investment pool" shall mean a fund established by another subdivision (including a county), the Director of Finance, the governing board or the investing authority (as each of those terms is defined in Ohio R.C. 135.01), if that fund was established for the purpose of investing the public moneys of other subdivisions, but shall not include STAR Ohio.
- (5) **"Investment Advisor" shall mean any person qualified to act as an investment advisor under Ohio R.C. 1707.141.**
- (6) "Public moneys" shall mean all moneys in the Treasury of the City or moneys coming lawfully into the possession of the Director of Finance.
- (7) "Qualified securities dealer" shall mean the Treasurer of the State of Ohio for the purposes of investments in STAR Ohio.
- (8) "Qualified Trustee" shall mean a qualified trustee as described in Ohio R.C. 135.18.
- (9) "Reverse repurchase agreement" shall mean a repurchase agreement under the terms of which the Director of Finance or such Director of Finance's designee agrees to sell securities owned by the City to a purchaser and agrees with that purchaser to unconditionally repurchase such securities.

(10) "STAR Ohio" shall mean the Ohio Subdivision's Fund created pursuant to Ohio R.C. 135.45 and currently designated as "Star Treasury Asset Reserve of Ohio".

(11) "Uniform Depository Act" shall mean Ohio R.C. Chapter 135 and all amendments thereto. (Ord. 51-97. Passed 3-24-97.)

Section 2 - That Section 238.05(e) of the Codified Ordinances, which presently reads as follows:

238.05 INVESTMENT POLICY

(e) Authority to Invest Public Moneys. The Director of Finance is hereby authorized and directed to invest the public moneys of the City in accordance with the provisions of this section and Section 238.055. The Director of Finance may delegate the authority to invest the public moneys of the City hereunder to another employee or employees of the City, provided that any such delegation shall be in a writing that shall be approved by the Mayor and the Council of the City. Such a delegation may be for a limited or unlimited period of time, provided that if such delegation is for an unlimited period of time, revocation of such delegation shall be effective only if made in a written instrument signed by the Director of Finance, and termination of the employment by the City of such employee shall automatically terminate such employee's authority to invest the public moneys of the City hereunder without the need for a written instrument.

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

238.05 INVESTMENT POLICY

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Section 3 - That Section 238.055(3) 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”):

- (3) Instruments of United States Government Agencies as authorized by the Ohio Revised Code, maturing within five years. These agencies may include Federal National Mortgage Association (FNMA), Federal Farm Credit Bureau (FFCB), Federal Home Loan Banks (FHLB), Federal Home Loan Mortgage Corporation (FHLMC), Small Business Administration (SBA), Student Loan Marketing Association (SLMA), and Governmental National Mortgage Association (GNMA). No single agency should represent more than one-third of the total assets within the investment portfolio; and

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

238.055 ELIGIBLE INVESTMENTS

- (3) **Bonds, notes, debentures, or other obligations or securities issued by any federal government agency or instrumentality, including but not limited to** ~~Instruments of United States Government Agencies as authorized by the Ohio Revised Code, maturing within five years. These agencies may include~~ Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit ~~Bureau~~ **Bank** (FFCB), **and** Federal Home Loan Mortgage Corporation (FHLMC), ~~Small Business Administration (SBA), Student Loan Marketing Association (SLMA), and Governmental National Mortgage Association (GNMA). No~~ single agency should represent more than one-third of the total assets within the investment portfolio **All such securities shall be direct issuances of federal government agencies or instrumentalities; and**

Section 4 - That Section 238.055(5) 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”):

- (5) Certificates of deposit with financial institutions which have an executed and approved depository agreement in effect with the city; and

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

238.055 ELIGIBLE INVESTMENTS

- (5) ~~Certificates of deposit with financial institutions which have an executed and approved depository agreement in effect with the city~~ **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 insured or collateralized pursuant to Ohio Revised Code Section 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 Revised Code Section 135.144 or Section 135.145 are also authorized.**

Section 5 - That Section 238.055(6) 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"):

- (6) No-load money market mutual funds consisting exclusively of obligations described in divisions (1) and (3) above, and as described in Ohio R.C. 135.14(B)(1) and (2), provided that investments in securities described in these sections are made only through eligible institutions mentioned in Ohio R.C. 135.03; and

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

238.055 ELIGIBLE INVESTMENTS

- (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, above, and as described in Ohio R.C. 135.14(B)(1) and (2),** provided that investments in securities described in ~~these sections~~ **this division** are made only through eligible institutions mentioned in Ohio R.C. 135.03.

Section 6 - 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 7 - 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 amend various sections of Chapter 238 to allow the City to retain the services of an investment advisor under §238.05(e) and to clarify certain eligible investments set forth in §238.055(a)(3),(5) and (6); 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:

Ellen R. Young
Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

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