



**ORDINANCE O-41-2021**

**AN ORDINANCE TO AMEND FINANCIAL POLICY 4.20 “INVESTMENTS & DEPOSITS OF FUNDS POLICY” AND CHAPTER 157 “INVESTMENT POLICY” OF THE CITY OF NEW ALBANY, OHIO’S CODIFIED ORDINANCES AS REQUESTED BY THE CITY OF NEW ALBANY AND DECLARING AN EMERGENCY TO WAIVE BOTH THE SECOND READING AND THE THIRTY DAY REFERENDUM PERIOD**

**WHEREAS**, the City of New Albany has been notified of an investment opportunity with the New Albany Plain Local Joint Parks District (the “District”) in which the city would purchase the District’s outstanding bonds in the amount of \$1,695,000, maturing each December of 2022, 2023, and 2024; and

**WHEREAS**, such investment is not currently included as an allowable investment under the City of New Albany financial policy 4.20 “Investments & Deposits of Funds Policy” and Chapter 157 “Investment Policy” of the City of New Albany Codified Ordinances due to the security not obtaining a rating by a nationally recognized standard rating service and the city being the sole purchaser of the security; and

**WHEREAS**, the city has performed proper due diligence on the District’s security to ensure that the creditworthiness is of the highest standards and that full payment can be expected in effort to reduce the risk of investing in the District’s security; and

**WHEREAS**, a review of the security has determined the city will receive a higher rate of return on the investment than the current municipal and securities market and the District will benefit from a lower interest rate paid on the bonds and lower interest rate than offered on their recent competitive bidding process for refinancing, ultimately benefiting the tax payers and residents of the City of New Albany; and

**WHEREAS**, to allow for the city to purchase the District’s security, an amendment to the City of New Albany financial policy 4.20 “Investments & Deposits of Funds Policy” and Chapter 157 “Investment Policy” of the City of New Albany Codified Ordinances is required; and

**WHEREAS**, this ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the city and for the further reason that this ordinance is required to be immediately effective to provide sufficient time for the closing of the purchase of the District’s outstanding bonds.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Financial policy 4.20 “Investments & Deposits of Funds Policy” and Codified Ordinance Chapter 157 “Investment Policy” section 157.06 be amended as set forth in Exhibit A, which depicts the amendment in colored ink.

**Section 2.** For the reasons stated herein, council hereby declares an emergency and waives the second reading and referendum period.

**Section 3.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code.

**Section 4.** Pursuant to Article VI, Section 6.07(A) of the charter of the City of New Albany, this ordinance shall be effective immediately upon passage.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**Attest:**

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

|             |            |
|-------------|------------|
| Prepared:   | 10/25/2021 |
| Introduced: | 11/02/2021 |
| Revised:    |            |
| Adopted:    | 11/02/2021 |
| Effective:  | 11/02/2021 |

## EXHIBIT A – O-41-2021

### **Policy 4.20 – Investments & Deposits of Funds Policy**

#### **Purpose of Policy:**

The City of New Albany strongly desires to maintain, safeguard, and prudently grow the assets of the City. These would include, but are not limited to: financial assets, equipment and machinery, land, infrastructure, and/or intellectual property (i.e., non-physical assets). In order to prevent loss and properly account for the City's assets, the following policy has been developed.

#### **A. General Policies & Procedures:**

##### 1. Investment Policy

All idle funds shall be invested in accordance with the Statement of Investment Policy approved by City Council. This policy emphasizes safety, preservation of principal, liquidity, and yield.

##### 2. Interest Distribution

Interest shall be distributed to the following funds in proportion to their cash balance as a percentage of the total cash balances of all funds:

- (1) Street Construction, Maintenance & Repair Fund;
- (2) State Highway Fund;
- (3) Permissive Tax Fund;
- (4) Capital Equipment Replacement Fund;
- (5) Capital Improvement Fund;
- (6) Park Improvement Fund;
- (7) Bond Improvement Fund;
- (8) Infrastructure Replacement Fund; and
- (9) Water & Sanitary Sewer Improvement Fund.

All other interest will be distributed to the General Fund except as otherwise required by statute or as required by state or federal grants.

3. Deposit of Funds

All cash and securities should be deposited within 24 hours of receipt wherever possible.

4. Depository Bank

The City shall review its designation of public depositories eligible to receive deposits of the City's funds at least once every five years. Depositories so designated shall appear on a list of eligible depositories authorized by the State of Ohio.

B. **Investment Policy (per City Codified Ordinances):**

**157.01 SCOPE.**

The Council hereby directs that the investing authority of this public entity shall reside with the Director of Finance in accordance with this Investment Policy. This Policy is designed to cover all moneys under the control of the Director of Finance and those that comprise the core investment portfolio.

This policy applies to the investment of all interim deposits and does not apply to the investment of employees' retirement funds. Except for cash in certain restricted and special funds, the City of New Albany will consolidate cash and reserve balances from all funds to

maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. In the event that a specific policy item is not addressed herein, the City shall rely upon relevant policies contained within Ohio Revised Code Section 135.

## 157.02 GENERAL OBJECTIVES

The primary objectives, in priority order, of investment activities shall be safety, liquidity and yield:

- (a) **Safety:** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.
  1. *Credit Risk* – The City of New Albany will seek to minimize credit risk associated with specific securities by:
    - i. Limiting investments to the types of securities permitted by Section 157.06 of this Investment Policy.
    - ii. Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which the City will do business in accordance with Section 157.04 of this Investment Policy.
    - iii. Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer may be minimized.
  2. *Interest Rate Risk* – The City will seek to minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:
    - i. Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
    - ii. Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this policy.
- (b) **Liquidity:** The investment portfolios shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished

by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with an active secondary, or resale market. Alternatively, a portion of the portfolio may be placed in money market mutual funds not subject to floating rate N.A.V. ("Prime" per Dodd-Frank Act) or local government investment pools which offer same-day liquidity for short-term funds.

- (c) **Yield:** The investment portfolio shall be designed with the objectives of attaining a market rate of return throughout budgetary and economic cycles. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a market return relative to the risk being assumed. Securities shall generally be held until maturity with the following exceptions:
- i. A security with declining credit may be sold early to minimize loss of principal.
  - ii. A security may be sold in order to realize a capital gain.
  - iii. A security sale at either a gain or loss followed by the purchase of a separate security that could be expected to improve the quality, yield or target duration in the portfolio. For purposes of this section, "redeemed" shall also mean "called" in the case of a callable security.
  - iv. Liquidity needs of the portfolio require that the security be sold.

### 157.03 STANDARDS OF CARE

- (a) **Prudence** - The standard of prudence to be used by the investment officials in managing the City's investment portfolio shall be the 'prudent person' standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy, and exercising due diligence shall be relieved of personal financial responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and sale of securities are carried out in accordance with the terms of this policy.

The 'prudent person' standard states that, "Investments shall be made using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds considering the probable income as well as the probable safety of their capital."

- (b) **Ethics and Conflicts of Interest** - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual and firm with whom business is conducted on behalf of the City of New Albany.
- (c) **Delegation of Authority**: Authority to manage the investment program is granted to the Director of Finance, hereinafter referred to as Investment Officer, and derived from ORC §153.14. Responsibility for the operation of the investment program is hereby delegated to the Investment Officer, who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. The Investment Officer may, subject to the approval of Council, engage the services of an independent, SEC Registered Investment Advisor (the "Investment Advisor") whose firm may be authorized to execute trades with approved brokers as defined in Section 157.04. The Investment Advisor is responsible for reporting trades and pricing to the Investment Officer. The Investment Advisor will not act as a trustee or as a Custodian.

#### 157.04 AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES AND BROKER/DEALERS.

- (a) **Authorized Financial Institutions, Depositories and Broker/Dealers**: A list of authorized institutions and dealers shall be maintained by the Investment Officer. All investments, except for investments in securities described in divisions (B)(5) and (6) of Ohio Revised Code Section 135.14 and for investments by a municipal corporation in the issues of such municipal corporation, shall be made only through a member of FINRA, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

- (b) **Repurchase Agreements:** Repurchase agreements shall be transacted only through banks located within the State of Ohio with which the Investment Officer has signed a Master Repurchase Agreement as required in Chapter 135 of the Ohio Revised Code.
- (c) **Certificates of Deposit:** Certificates of Deposit shall be issued by commercial banks or savings and loans with FDIC coverage. Any Certificates of Deposit purchased by the City shall not exceed FDIC insurance ceilings.

#### 157.05 SAFEKEEPING AND CUSTODY.

- (a) **Delivery versus Payment:** All trades of marketable securities will be executed by delivery versus payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds.
- (b) **Safekeeping:** The Investment Officer shall be responsible for the safekeeping of investment assets. Securities purchased for the Municipality will be held in safekeeping by a qualified trustee (hereinafter referred to as the "Custodian"), as provided in Ohio R.C. 135.37. Securities held in safekeeping by the Custodian shall be evidenced by a monthly statement describing such securities. The Custodian may safekeep securities in Federal Reserve Bank book entry form, Depository Trust Company book entry form in the account of the Custodian or the Custodian's correspondent bank, or non-book entry (physical) securities held by the Custodian or the Custodian's correspondent bank. The Custodian shall annually provide a copy of their most recent report on internal controls (SSAE 16 SCO reports, or equivalent).
- (c) **Internal Controls:** The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. Details of the internal controls system shall be documented in an investment procedures manual and shall be reviewed and updated annually. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived, and (2) the valuation of costs and benefits requires estimates and judgment of management.

The internal controls structure shall address the following points:

- i. Control of collusion
- ii. Separation of transaction authority from accounting and recordkeeping.
- iii. Custodial safekeeping
- iv. Avoidance of physical delivery of securities
- v. Clear delegation of authority to subordinate staff members

- vi. Written confirmation of transactions for investments and wire transfers

#### 157.06 PERMITTED INVESTMENTS.

The Investment Officer may invest in any instrument or security authorized in Chapter 135 of the Ohio Revised Code, as amended. A copy of the appropriate ORC section will be kept with this policy.

Periodically the City may determine it prudent to invest in securities not covered under ORC Chapter 135. The City will perform proper due diligence on the security to ensure that the creditworthiness is of the highest standards and that full payment can be expected. A prospective investment that is not covered under ORC Chapter 135 shall be submitted to City Council for its approval.

#### 157.07 DERIVATIVES.

Investments in derivatives are strictly prohibited.

#### 157.08 COLLATERAL.

All investments and deposits shall be collateralized pursuant to Chapter 135 of the Ohio Revised Code.

#### 157.09 REPORTING.

- (a) **Inventory:** The Investment Officer shall maintain an inventory of all obligations and securities acquired by the Investment Officer. The inventory shall include the following:
  - i. description of the security,
  - ii. type,
  - iii. security cost,
  - iv. par, or face value, of the security,
  - v. maturity date,
  - vi. settlement date, and
  - vii. coupon rate
- (b) **Reporting:** The Investment Officer shall maintain a monthly portfolio report and issue a portfolio report at least quarterly which details the following:

- i. all transactions during the period,
  - ii. income received and expenses paid;
  - iii. security purchases and sales;
  - iv. purchase yield of each security, and
  - v. the effective yield and effective maturity of the portfolio.
- (c) **Authority:** The portfolio report shall state the names of any persons or entity effecting transactions on behalf of the investing authority.

#### 157.10 COMMITTEE MEETINGS.

The Council or a designated Investment Advisory Committee will endeavor to meet on a quarterly basis; however, said committee shall meet no less than twice per annum to review the portfolio in terms of security, type, risk and investment return. The Investment Officer shall be responsible for maintaining records of all investments and deposits and preparing reports that summarize recent market conditions, economic conditions, economic developments and anticipated investments for the Council.

#### 157.11 ACKNOWLEDGMENT.

Pursuant to Chapter 135 of the Ohio Revised Code, all entities conducting business and all brokers, dealers, and financial institutions initiating transactions with the Municipality by giving advice or making investment policy, or executing transactions initiated by the Municipality, must acknowledge their agreement to abide by this investment policy's content.

#### BROKER/AGENT ACKNOWLEDGEMENT OF RECEIPT

By signing below, the institution submits that it has read and acknowledges the investment policies, and agrees to abide by its content.

\_\_\_\_\_  
Name of Institution

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Date

City of New Albany:

|

\_\_\_\_\_  
Director of Finance

\_\_\_\_\_  
Date