



William Biddlecombe **Joe Dike** **Sam Artino** **Monty Tapp** **Mark Claus** **Matt Grieves** **Joel Hagy**
Councilmember Councilmember Councilmember Mayor Vice-Mayor Councilmember Councilmember

CITY COUNCIL — REGULAR COUNCIL MEETING

Tuesday, January 9, 2024 @ 6:30 PM

City Council Chambers

417 Main Street

Huron, Ohio 44839

- I. Call To Order** Moment of Silence followed by the Pledge of Allegiance to the Flag
- II. Roll Call of City Council**
- III. Approval of Minutes**
 - III.a** Minutes of the City Council meeting of November 14, 2023.
- IV. Audience Comments** Citizens may address their concerns to City Council. Please state your name and address for the recorded journal. (3-minute time limit)
- V. Old Business**
 - V.a** Ordinance No. 2023-50 **(second reading)** *(submitted by Erik Engle)*
An ordinance repealing, amending and restating Chapter 1313 (Purpose) of the City of Huron Codified Ordinances.
 - V.b** Ordinance No. 2023-53 **(second reading)** *(submitted by Erik Engle)*
An ordinance repealing, amending and restating Chapter 1139 of the City of Huron Codified Ordinances.
 - V.c** Ordinance No. 2023-54 **(second reading)** *(submitted by Erik Engle)*
An ordinance establishing a new Section 1126.29 (Wind Energy) under Chapter 1126 (Special Provisions) of the City of Huron Codified Ordinances.
 - V.d** Ordinance No. 2023-51 **(second reading)** *(submitted by Erik Engle)*
An ordinance establishing a new Section 505.18 (Chickens) under Chapter 505 (Animals and Fowl) of the City of Huron Codified Ordinances.
 - V.e** Ordinance No. 2023-52 **(second reading)** *(submitted by Erik Engle)*
An ordinance establishing a new Section 505.19 (Bees) under Chapter 505 (Animals and Fowl) of the City of Huron Codified Ordinances.
 - V.f** Ordinance No. 2023-55 **(second reading)** *(submitted by Erik Engle)*
An ordinance repealing, amending and restating Section 1123.01(c) (Accessory Uses) under Chapter 1123 (Residence Districts) of the City of Huron Codified Ordinances.
 - V.g** Resolution No. 2023-56 **(second reading)** *(submitted by Erik Engle)*
An ordinance establishing a new Subparagraph (7) under Section 1125.02(a) (Neighborhood Business District) of Chapter 1125 (Non-Residence Districts) of the City of Huron Codified Ordinances.
 - V.h** Ordinance No. 2023-57 **(second reading)** *(submitted by Erik Engle)*
An ordinance amending Section 1123.04 (R-3 Multi-Family Residence District) of Chapter 1123 (Residence Districts) of the Huron Codified Ordinances to establish a new Section 1123.04(f).

VI. New Business

VI.a Resolution No. 1-2024 *(submitted by Chief Terry Graham)*

A resolution authorizing the purchase of 5 Flock Safety Falcon cameras and related software from Flock Safety in the amount of \$32,250.00.

VI.b Ordinance No. 2024-1 *(submitted by Chief Terry Graham)*

ODOT Consent Legislation allowing placement of ITS (Flock) Cameras on US-6.

VI.c Resolution No. 3-2024 *(submitted by Stuart Hamilton)*

A resolution authorizing an agreement with Kleinfelder for design, bidding and construction administration services related to the Two-Million Gallon Elevated Water Tower Project in the amount of \$132,250.

VI.d Resolution No. 4-2024 *(submitted by Stuart Hamilton)*

A resolution authorizing an agreement with Kleinfelder for design and bidding services relating to the Huron River Alternate Raw Water Intake and Sludge Lagoon Sewer Project in the amount of \$344,840.00.

VI.e Motion *(submitted by Mayor Monty Tapp)*

A motion to appoint Tim Sowecke to the Planning Commission for a term of 4 years; reappoint Frank Kath to the Board of Building and Zoning Appeals for a term of 5 years; reappoint Dave Finger to the Huron Joint Port Authority for a term of 4 years; and reappoint Pat Deville to the Personnel Appeals Board for a term of 3 years.

VI.f Motion *(submitted by Mayor Monty Tapp)*

Motion to appoint Council Members to various boards, committees and commissions for a term ending November 30, 2025, as set forth on Exhibit A included in the agenda packet for this meeting.

VII. City Manager's Discussion

VIII. Mayor's Discussion

IX. For the Good of the Order

X. Executive Session(s)

XI. Adjournment



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-50 (**second reading**) (*submitted by Erik Engle*)
DATE: January 9, 2024

Subject Matter/Background

This ordinance separates out Planning Commission processes from building review processes and renames Chapter 1313 Building Plan Review. Essentially, the purpose under 1313.01 was revamped to reflect such differentiation. Furthermore, Section 1313.03 Procedure for Filing and Review was simply moved from the Building Code to the Zoning Code under the newly established 1139.01 Planning Commission Review. A redline copy of the changes proposed is attached hereto as Exhibit 1.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure, and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-50 on its second reading is in order.

[Ordinance No. 2023-50 Chapter 1313 Building Plan Review Amendment \(3\).docx](#)

[Ordinance No. 2023-50 Exh A.pdf](#)

[Ordinance No. 2023-50 - Exh B \(1\).docx](#)

ORDINANCE NO. 2023-50
Introduced by Mark Claus

AN ORDINANCE REPEALING AND AMENDING AND RESTATING CHAPTER 1313 (BUILDING PLAN REVIEW)
OF THE HURON CODIFIED ORDINANCES.

WHEREAS, this Council hereby determined the changes and amendments set forth within this Ordinance, including Exhibit "B", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Chapter 1313 (Building Plan Review) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows (refer to Exhibit "A" attached), shall be and hereby is repealed in its entirety.

SECTION 2. That a new revised and restated Chapter 1313 (Building Plan Review) of the Codified Ordinances of the City of Huron, Ohio, as attached hereto and made a part hereof as Exhibit "B", shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. In accordance with Section 3.06 of the Charter of the City of Huron, Ohio, this Ordinance shall take effect thirty (30) days following its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CHAPTER 1313**Site Plan and Storm Water Pollution Prevention Plan (SWPPP) Review****1313.01 Purpose.****1313.02 Requirements.****1313.03 Procedure for filing and review.****1313.04 Fees.****1313.99 Penalty.****CROSS REFERENCES**

Plans and fees under Ohio Building Code - see BLDG. 1301.10

1313.01 PURPOSE.

In order to assure the proper development of all property within the City and in order to comprehensively correlate the provisions of this chapter and other ordinances of the City, it shall be required that prior to the issuance of a building permit on any lot, building site, parcel or property, a suitable site development plan and a SWPPP shall be submitted to the Department of Building and Housing and that such plans shall be subject to review by the City Planning Commission, City Building and Housing Department, and the City Engineering Office.

(Ord. 2013-39. Passed 9-24-13.)

1313.02 REQUIREMENTS.

(a) Upon the filing of an application for a building permit for every building or structure, other than a single family or a two family dwelling, the applicant shall also submit a site development plan to the Zoning Inspector/Building Official. The site development plan shall include the following information:

(1) A scale drawing showing:

- A. Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site.
- B. The location of vehicular ingress and egress and parking spaces, (both existing and proposed) and the dimensions of the same.
- C. The extent and type of parking lot and driveway paving.
- D. The location and dimensions of all pedestrian ways and/or sidewalks.
- E. The location and size of all existing and proposed utilities.
- F. Complete building elevations and signage including color renderings of the same
- G. Lighting plan for the site including style and intensity of all parking lot and building mounted lights.
- H. The plan and method of disposing of all surface water from development area, which drainage plan shall be in accordance with Section 1115.03 of the Subdivision Regulations.

(2) A written statement containing the following:

- A. A legal description of the site and a statement of the present ownership of all the land included within the site development area.
- B. A statement of ownership (names and addresses) and the present use of all properties located within 150 feet of the exterior boundaries of the subject development site.
- C. A general indication of the expected schedules and/or phases of development.

(b) Design review responsibilities (architectural review) shall be performed by the Planning Commission and shall be in accordance with the rules and regulations of the Commission for every building or structure with the exception of one and two-family dwellings. Design review shall also include the Planning Commission's review of all signage. The standards used by the Commission for design review shall be in accordance with Chapter 1141.

(c) Upon the filing of an application for a building permit for a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Zoning Inspector/Building Official. The site development plan shall include the following information: A scale drawing showing:

- (1) Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site. house number.
- (2) The location of vehicular ingress and egress and the dimensions of the same.
- (3) The location and dimensions of all pedestrian ways and/or sidewalks.
- (4) The location and size of all existing and proposed utilities.
- (5) Complete building elevations.

(6) The method of disposing of all surface water from the development area.

(d) Upon the filing of an application for a Building Permit for a Plan of Development larger than 1 acre in size of disturbed area, the applicant shall submit a comprehensive Storm Water Pollution Prevention Plan (SWPPP) to the City Engineer for review. The SWPPP shall meet the requirements set forth in the Title Three, Chapter(s) 1315 and 1317.

(Ord. 2021-36. Passed 10-26-21.)

1313.03 PROCEDURE FOR FILING AND REVIEW.

(a) For all site plans (including design review requirements), with the exception of single or two- family projects, seven (7) copies of the site development plan and all accessory and supporting documents shall be submitted to the Zoning Inspector/Building Official.

(1) For design review submittal, the developer shall submit seven (7) copies of the architectural plan, including accurate color renderings, landscaping, and lighting, and all other materials needed to allow the Planning Commission to make an accurate review of the project in accordance with Chapter 1141. This submittal can be done at the time of filing for the site plan or can be done after the preliminary approval of the site plan by the Commission. The Commission can not give final approval of the plan and the zoning and building permit may not be issued until the Commission gives their final approval of the complete plan, including the design review portion.

(b) For all Development Projects disturbing 1 or more acres, three (3) copies of the Site SWPPP and all accessory and supporting documents shall be submitted to the City Engineer. The engineer shall review the plans and shall approve or return these with comments and recommendations for revisions within thirty (30) working days after receipt of the plan described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another thirty (30) day review period shall begin.

(c) SWPPP Plans for site larger than one (1) acre must receive approval from the City Engineer before a Building Permit can be issued.

(d) Site development plans for a building site for single family or two family dwellings may be approved by the Zoning Inspector/Building Official without further review by the Planning Commission.

(e) Site development plans for all building sites other than for single family or two family dwellings shall be submitted by the Zoning Inspector/Building Official to the Planning Commission for review within thirty days of the filing of the plan.

(f) The Planning Commission shall consider such plan at a public meeting; notice of which meeting shall be served by regular mail to all property owners within 150 feet of the exterior boundaries of the subject site. Such public meeting shall be the next regularly scheduled meeting of the Planning Commission provided the plan is filed with the Zoning Inspector/Building Official by the applicant at least ten (10) days prior to the date of the regular meeting.

(g) Within thirty (30) days from the date of the public meeting considering such change, the Planning Commission shall approve, deny or modify the plan.

(h) Any property owner entitled to notice of the Planning Commission's review(including the design review aspect), as herein provided, and each person submitting a site development plan, shall be entitled to appeal the decision of the Zoning Inspector/Building Official and/or the Planning Commission in approving, modifying, or denying the plan, to the City Council. Such appeal shall be perfected by filing a notice in writing with the Clerk of Council within five (5) days of the decision being appealed. Such notice of appeal shall state in detail the reasons or reason why the decision is being appealed. Any applicant aggrieved by the decision of the City Council, on the appeal described in Subsection (a) above, may appeal said final decision to the Court of the Common Pleas that such decision was unreasonable or unlawful. Such petition shall be filed with the Court within thirty (30) days of the meeting of the City Council at which said decision was made.

(i) The Zoning Inspector/Building Official shall not issue a Zoning Permit or a Building Permit and or a Certificate of Occupancy for the structure/project, until all the requirements of the Planning Commission, including design review and SWPPP review, have been fully complied with.

(j) An approval for a site plan and SWPPP shall be in effect for a period of two (2) years from the date of the Commission's approval. If the project is not started with continual work being performed within that time, the approval shall be voided.

(Ord. 2021-36. Passed 10-26-21.)

1313.04 FEES.

Fees for the review of the site development plan, including the design review, as required by this chapter, shall be as prescribed by Council in Section 1321.12.

(Ord. 2013-39. Passed 9-24-13.)

1313.99 PENALTY.

Whoever violates any portion of this Chapter, or fails to comply fully with the requirements of the Planning Commission, shall be deemed in violation of the Zoning Code and such violation shall be punishable under Section 1131.01 (h) and (i) of the Zoning Code.

(Ord. 2013-39. Passed 9-24-13.)

CHAPTER 1313
Building Plan Review

- 1313.01 Purpose.
 - 1313.02 Requirements.
 - 1313.03 Procedure for filing and review.
 - 1313.04 Fees.
 - 1313.99 Penalty.
- CROSS REFERENCES

Plans and fees under Ohio Building Code - see BLDG. 1301.10

1313.01 PURPOSE.

In order to assure the proper development of all property within the City and in order to comprehensively correlate the provisions of this chapter and other ordinances of the City, it shall be required that prior to the issuance of a building permit on any lot, building site, parcel or property, suitable site development plan and a SWPPP, if required, be submitted to the Planning and Zoning Department and Building Department and that such plans shall be subject to review by the City Planning Commission, City Building and Zoning Department, and the City Engineering Office.

(Ord. 2013-39. Passed 9-24-13.)

1313.02 MINIMUM REQUIREMENTS FOR CONSTRUCTION.

(a) Upon the filing of an application for a building permit for every building or structure, other than a single-family or a two-family dwelling, the applicant shall also submit a site development plan to the Zoning Inspector/Building Official. The site development plan shall include the following information:

- (1) A scale drawing showing:
 - A. Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site.
 - B. The location of vehicular ingress and egress and parking spaces, (both existing and proposed) and the dimensions of the same.
 - C. The extent and type of parking lot and driveway paving.
 - D. The location and dimensions of all pedestrian ways and/or sidewalks.
 - E. The location and size of all existing and proposed utilities.
 - F. Complete building elevations and signage including color renderings of the same
 - G. Lighting plan for the site including style and intensity of all parking lot and building mounted lights.

H. The plan and method of disposing of all surface water from development area, which drainage plan shall be in accordance with Section 1115.03 of the Subdivision Regulations.

(2) A written statement containing the following:

A. A legal description of the site and a statement of the present ownership of all the land included within the site development area.

B. A statement of ownership (names and addresses) and the present use of all properties located within 150 feet of the exterior boundaries of the subject development site.

C. A general indication of the expected schedules and/or phases of development.

(b) Design review responsibilities (architectural review) shall be performed by the Planning Commission and shall be in accordance with the rules and regulations of the Commission for every building or structure with the exception of one and two-family dwellings. Design review shall also include the Planning Commission's review of all signage. The standards used by the Commission for design review shall be in accordance with Chapter 1141.

(c) Upon the filing of an application for a building permit for a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Zoning Inspector/Building Official. The site development plan shall include the following information: A scale drawing showing:

(1) Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site. house number.

(2) The location of vehicular ingress and egress and the dimensions of the same.

(3) The location and dimensions of all pedestrian ways and/or sidewalks.

(4) The location and size of all existing and proposed utilities.

(5) Complete building elevations.

(6) The method of disposing of all surface water from the development area.

(d) Upon the filing of an application for a Building Permit for a Plan of Development larger than 1 acre in size of disturbed area, the applicant shall submit a comprehensive Storm Water Pollution Prevention Plan (SWPPP) to the City Engineer for review. The SWPPP shall meet the requirements set forth in the Title Three, Chapter(s) 1315 and 1317.

(Ord. 2021-36. Passed 10-26-21.)

1313.03 PROCEDURE FOR FILING AND REVIEW.

(a) For all site plans (including design review requirements), with the exception of single- or two-family projects, seven (7) copies of the site development plan and all accessory and supporting documents shall be submitted to the Zoning Inspector/Building Official.

(1) For design review submittal, the developer shall submit seven (7) copies of the architectural plan, including accurate color renderings, landscaping, and lighting, and all other materials needed to allow the Planning Commission to make an accurate review of the project in accordance with Chapter 1141. This submittal can be done at the time of filing for the site plan or can be done after the preliminary approval of the site plan by the Commission. The Commission can not give final approval of the plan and the zoning and building permit may not be issued until the Commission gives their final approval of the complete plan, including the design review portion.

(b) For all Development Projects disturbing 1 or more acres, three (3) copies of the Site SWPPP and all accessory and supporting documents shall be submitted to the City Engineer. The engineer shall review the plans and shall approve or return these with comments and recommendations for revisions within thirty (30) working days after receipt of the plan described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another thirty (30) day review period shall begin.

(c) SWPPP Plans for site larger than one (1) acre must receive approval from the City Engineer before a Building Permit can be issued.

(d) Site development plans for a building site for single family or two family dwellings may be approved by the Zoning Inspector/Building Official without further review by the Planning Commission.

(e) Site development plans for all building sites other than for single family or two family dwellings shall be submitted by the Zoning Inspector/Building Official to the Planning Commission for review within thirty days of the filing of the plan.

(f) The Planning Commission shall consider such plan at a public meeting; notice of which meeting shall be served by regular mail to all property owners within 150 feet of the exterior boundaries of the subject site. Such public meeting shall be the next regularly scheduled meeting of the Planning Commission provided the plan is filed with the Zoning Inspector/Building Official by the applicant at least ten (10) days prior to the date of the regular meeting.

(g) Within thirty (30) days from the date of the public meeting considering such change, the Planning Commission shall approve, deny or modify the plan.

(h) Any property owner entitled to notice of the Planning Commission's review (including the design review aspect), as herein provided, and each person submitting a site development plan, shall be entitled to appeal the decision of the Zoning Inspector/Building Official and/or the Planning Commission in approving, modifying, or denying the plan, to the City Council. Such appeal shall be perfected by filing a notice in writing with the Clerk of

Council within five (5) days of the decision being appealed. Such notice of appeal shall state in detail the reasons or reason why the decision is being appealed. Any applicant aggrieved by the decision of the City Council, on the appeal described in Subsection (a) above, may appeal said final decision to the Court of the Common Pleas that such decision was unreasonable or unlawful. Such petition shall be filed with the Court within thirty (30) days of the meeting of the City Council at which said decision was made.

(i) The Zoning Inspector/Building Official shall not issue a Zoning Permit or a Building Permit and or a Certificate of Occupancy for the structure/project, until all the requirements of the Planning Commission, including design review and SWPPP review, have been fully complied with.

(j) An approval for a site plan and SWPPP shall be in effect for a period of two (2) years from the date of the Commission's approval. If the project is not started with continual work being performed within that time, the approval shall be voided.

(Ord. 2021-36. Passed 10-26-21.)

1313.04 FEES.

Fees for the review of the site development plan, including the design review, as required by this chapter, shall be as prescribed by Council in the Fee Schedule.

(Ord. 2013-39. Passed 9-24-13.)

1313.99 PENALTY.

Whoever violates any portion of this Chapter, or fails to comply fully with the requirements of the Planning Commission, shall be deemed in violation of the Zoning Code and such violation shall be punishable under Section 1131.01 (h) and (i) of the Zoning Code.

(Ord. 2013-39. Passed 9-24-13.)



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-53 **(second reading)** *(submitted by Erik Engle)*
DATE: January 9, 2024

Subject Matter/Background

This ordinance clarifies language set in Chapter 1139 Zoning Administration.

Amendments include the following:

1. Typical grammatical edits, wordsmithing, and basic revisions
2. Restructuring language from other code chapters
3. Establishing a clear process for conditional uses
4. Formally establishing zoning certificate expirations aligned with building permits; one year timeframe
5. Formally establishing a one-year expiration for area variances

A redline copy of the changes proposed is attached hereto as Exhibit 1.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-53 on its second reading is in order.

[Ordinance No. 2023-53 Chapter 1139 REDLINES.pdf](#)

[Ordinance No. 2023-53 Chapter 1139 Zoning Administration \(1\).docx](#)

[Ordinance No. 2023-53 Exhibit A \(1\).pdf](#)

[Ordinance No. 2023-53 Exh B \(3\).docx](#)

CHAPTER 1139
Zoning Administration

1139.01 Planning Commission Review

1139.02 Procedure for Filing and Review

~~1139.02-03~~ Enforcement; penalty.

~~1139.0342~~ Board of Building and Zoning Appeals.

~~1139.0453~~ Conditional Use Permits

~~1139.0564~~ Zoning district changes and zoning regulation amendments.

~~1139.0675~~ Validity and repeal.

CROSS REFERENCES

Board of Building and Zoning Appeals created - see CHTR. 7.02

1139.01 PLANNING COMMISSION REVIEW

(a) Requirements. Upon the filing of an application for a building permit for every building or structure, other than a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Planning and Zoning Department. The site development plan shall include the following information:

(1) A scaled drawing showing:

A. Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site.

B. The location of vehicular ingress and egress and parking spaces, (both existing and proposed) and the dimensions of the same.

C. The extent and type of parking lot and driveway paving.

D. The location and dimensions of all pedestrian ways and/or sidewalks.

E. The location and size of all existing and proposed utilities.

F. Complete building elevations and signage including color renderings of the same

G. Lighting plan for the site including style and intensity of all parking lot and building mounted lights.

H. The plan and method of disposing of all surface water from development area, which drainage plan shall be in accordance with Section 1115.03 of the Subdivision Regulations.

(2) A written statement containing the following:

A. A legal description of the site and a statement of the present ownership of all the land included within the site development area.

B. A statement of ownership (names and addresses) and the present use of all properties located within ~~100-150~~ feet of the exterior boundaries of the subject development site.

C. A general indication of the expected schedules and/or phases of development.

(b) Design review responsibilities (architectural review) shall be performed by the Planning Commission and shall be in accordance with the rules, ~~and regulations, and design guidelines~~ of the Commission for every building or structure with the exception of one and two-family dwellings. Design review shall also include the Planning Commission's review of all signage. The standards used by the Commission for design review shall be in accordance with Chapter 1141.

(c) Upon the filing of an application for a building permit for a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Planning and Zoning Department. The site development plan shall include the following information: A scale drawing showing:

(1) Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site. house number.

(2) The location of vehicular ingress and egress and the dimensions of the same.

(3) The location and dimensions of all pedestrian ways and/or sidewalks.

(4) The location and size of all existing and proposed utilities.

(5) Complete building elevations.

(6) The method of disposing of all surface water from the development area.

(d) Upon the filing of an application for a Building Permit for a Plan of Development larger than 1 acre in size of disturbed area, the applicant shall submit a comprehensive Storm Water Pollution Prevention Plan (SWPPP) to the City Engineer for review. The SWPPP shall meet the requirements set forth in the Title Three, Chapter(s) 1315 and 1317.

(Ord. 2021-36. Passed 10-26-21.)

Commented [EE1]: Recommendation from PC to remove notification requirement; staff advises this to remain for the sake of transparency.

(b) 1139.02 PROCEDURE FOR FILING AND REVIEW.

Formatted: No bullets or numbering

(a) For all site plans (including design review requirements), with the exception of single or two- family projects, a digital copy and seven-three (37) physical printed copies of the site development plan and all accessory and supporting documents shall be submitted to the Zoning Inspector/Building Official~~Planning and Zoning Department~~.

(1) For design review submittal, the developer shall submit a digital copy and three (3) physical printed copies seven (7) copies of the architectural plan, including accurate color renderings, landscaping, and lighting, and all other materials needed to allow the Planning Commission to make an accurate review of the project in accordance with Chapter 1141. This submittal can be done at the time of filing for the site plan or can be done after the preliminary approval of the site plan by the Commission. The Commission cannot give final approval of the plan and the zoning and building permit may not be issued until the Commission gives their final approval of the complete plan, including the design review portion.

(b) For all Development Projects disturbing 1 or more acres, three (3) copies of the Site SWPPP and all accessory and supporting documents shall be submitted to the City Engineer. The engineer shall review the plans and shall approve or return these with comments and recommendations for revisions within thirty (30) working days after receipt of the plan described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another thirty (30) day review period shall begin.

(c) SWPPP Plans for site larger than one (1) acre must receive approval from the City Engineer before a Building Permit can be issued (See Chapter 1313).

(d) Site development plans for a building site for single family or two family dwellings may be approved by the Zoning Inspector, ~~Building Official~~, and City Engineer without further review by the Planning Commission.

(e) Site development plans for all building sites other than for single family or two- family dwellings shall be submitted by the Zoning Inspector/Building Official to the Planning Commission for review within thirty days of the filing of the plan.

(f) The Planning Commission shall consider such plan at a public meeting; notice of which meeting shall be served by regular mail to all property owners within 150~~100~~-feet of the exterior boundaries of the subject site and a sign posted on the site no less than three days prior to the public meeting. Such public meeting shall be the next regularly scheduled meeting of the Planning Commission provided the plan is filed with the Planning and Zoning Department by the applicant at least ten (10) days prior to the date of the regular meeting.

Commented [EE2]: Refer back to building code chapter 1313 and 1315

(g) Within thirty (30) days from the date of the public meeting considering such change, the Planning Commission shall approve, deny or modify the plan.

(h) Any property owner entitled to notice of the Planning Commission's review (including the design review aspect), as herein provided, and each person submitting a site development plan, shall be entitled to appeal the decision of the Zoning Inspector/Building Official and/or the Planning Commission in approving, modifying, or denying the plan, to the City Council. Such appeal shall be perfected by filing a notice in writing with the Clerk of Council within five (5) days of the decision being appealed. Such notice of appeal shall state in detail the reasons or reason why the decision is being appealed. Any applicant aggrieved by the decision of the City Council, on the appeal described in Subsection (a) above, may appeal said final decision to the Court of the Common Pleas that such decision was unreasonable or unlawful. Such petition shall be filed with the Court within thirty (30) days of the meeting of the City Council at which said decision was made.

(i) Planning and Zoning Staff/Building Official shall not issue a Zoning Permit or a Building Permit and or a Certificate of Occupancy for the structure/project, until all the requirements of the Planning Commission, including design review and SWPPP review, have been fully complied with.

(j) An approval for a site plan and SWPPP shall be in effect for a period of two (2) years from the date of the Commission's approval. If the project is not started with continual work being performed within that time, the approval shall be voided.

Commented [EE3]: Define and reference back to building code?

1139.032 ENFORCEMENT; PENALTY.

(a) Enforcement by Zoning Inspector. The Zoning Inspector, or his designated representative, shall enforce this Zoning Ordinance in accordance with the administrative provisions of the City Building Code and this chapter. All departments, officials and public employees of the City, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this chapter. Any permit or license, issued in conflict with the provisions of this chapter shall be null and void.

(b) Filing Plans. Every application for a zoning certificate shall be accompanied by plans in duplicate, drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; in the case of a proposed new building or structure as would substantially alter its appearance, drawings or sketches showing the front, side and rear elevations of the proposed building or structure, or of the structure as it will appear after the work for which a permit is sought is completed; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. One copy

of such plans shall be returned to the owner when the plans are approved by the Zoning Inspector, together with such zoning certificate as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. In any case where the lot is not provided and is not proposed to be provided with a public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the Health Officer of the proposed method of water supply and/or disposal of sanitary wastes.

(c) Zoning Certificate. No owner shall use or permit the use of any structure, building or land or part thereof, hereafter created, erected, changed, converted or enlarged in whole or in part, until a zoning certificate, which may be a part of the building permit, is issued by the Zoning Inspector. Such zoning certificate shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this chapter. The Zoning Inspector shall issue a zoning certificate, provided he is satisfied that the structure, building or premises and the proposed use thereof and the proposed methods of water supply and disposal of sanitary wastes, conform with all applicable requirements of this chapter. The zoning certificate is only valid for one (1) year, which is fulfilled with the commencement of construction within one (1) year of issuance. Should the year time limit lapse, applicants may renew their certificate or resubmit for Planning Commission approval at the Director's discretion.

(d) Certificate of Occupancy. A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such building or part is completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file in the Building Department and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

(e) Zoning Inspector to Act Within Thirty Days. The Zoning Inspector shall act upon all such applications on which he is authorized to act by the provisions of this chapter within thirty days after they are filed in full compliance with all the applicable requirements. He shall either issue a zoning certificate within the thirty days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefor. Failure to notify the applicant in case of such refusals within the thirty days shall entitle the applicant to a zoning certificate, unless the applicant consents to an extension of time.

(f) Fees. A fee shall be charged for an original zoning certificate applied for before the application for a building permit, where such permit is required and issued under the Building Code ([Chapter 1321](#)). For all other zoning certificates, there shall be a fee and the charge therefor, as referenced in the Fee Schedule.

(g) Violation; Penalty. No person, firm or corporation shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any of the provisions of this chapter, or any amendment or supplement thereto adopted by Council. Any person, firm or corporation violating any of the provisions of this chapter or any

amendment or supplement thereto, for which no other penalty is provided, shall be fined ~~\$300 up to 75% of the permit fee cost~~. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense.

(h) Violation; Remedy. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, Council, the Law Director, the Zoning Inspector or any adjacent or neighboring property owner, may in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. 2012-32. Passed 7-24-12.)

1139.043 BOARD OF BUILDING AND ZONING APPEALS.

(a) Appointment. There is hereby created a Board of Building and Zoning Appeals consisting of five members who shall be residents who hold no other City office or employment, selected by Council, one each year for overlapping terms of five years. It shall have all the power and authority conferred upon boards of zoning appeals by state law and such other duties as may be imposed upon it by state law. Its members shall serve without compensation.

(b) Procedure. The Board shall adopt its own rules, in accordance with this chapter and elect its own officers annually. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(c) Quorum. Three members of the Board shall constitute a quorum. The Board shall act by resolution; and the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or any other duly authorized administrative officer, or to decide in favor of an applicant in any matter on which it is required to pass under this Zoning Ordinance, of every such determination shall be stated. A member of the Board shall not be qualified to vote if he has not attended the public hearing or if he has a direct or indirect interest in the issue appealed.

(d) Assistance; Other Departments. The Board may call upon the City departments for assistance in the performance of its duties, and such departments shall render such assistance to the Board as may reasonably be required.

(e) Applications, Appeals, Hearings and Stay of Proceedings. An application in cases in which the Board has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Inspector, who shall transmit same to the Board. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Inspector. Such appeal shall be taken within thirty days after the decision, by filing with the secretary of the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

If an application or appeal is received at least five days before a regularly scheduled meeting of the Board, it shall act within forty-five days after such meeting. Failure to act within such period shall be considered approval. Before making any decisions on an application or appeal, the Board shall hold a public hearing at such times as shall be determined by the Board itself. Special hearings can be arranged at the call of the Chairman. Notices of the time and place of hearings shall be mailed, by regular first-class mail, not less than three days prior to the date of the hearing, to the appellant and to affected property owners owning property located within ~~150~~¹⁰⁰ feet of the property that is the subject of the application or appeal, as the names of such owners appear in the current records of the County Auditor's office, or such notice may be given by publication for two successive weeks prior thereto in a newspaper of general circulation in the City. A sign shall also be posted on site indicating the proposed zoning variance(s) not less than three days prior to the meeting.

Failure to notify any affected property owner, as hereinbefore defined, shall have no effect upon the validity of the proceedings taken by the Board. Each application or appeal shall be accompanied by a fee as prescribed by Council to cover the cost of publishing and/or posting and mailing the notices of the hearing or hearings. At the hearing, any party may appear in person or be represented by an agent or attorney.

Any person or persons, jointly or severally aggrieved by the decision of the Board, may appeal to the Court of Common Pleas that such decision is unreasonable or unlawful. Such petition shall be presented to the Court within thirty days after the filing of the decision in the office of the Board.

A certified copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to

the applicant or appellant, whenever a permit is authorized by the Board.

A decision of the Board shall not become ~~final until the expiration of five days from the date such decision is made effective immediately on the date of the final decision, unless the Board finds the immediate taking of effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.~~

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board after notice of appeal is filed with him, that by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas on application, on notice to the Zoning Inspector, or by judicial proceedings and on due cause shown.

(f) Powers. The Board of Building and Zoning Appeals shall have the following powers:

The Board shall have the power to hear and decide, in accordance with the provisions of this chapter, applications, filed as hereinbefore provided, for variances, interpretation of the Zoning Map, interpretation of the Zoning Code or for decision upon other special questions on which the Board is authorized by this Ordinance to pass. In considering an applications the Board shall give due regard to the nature and conditions of all adjacent uses and structures.

Commented [EE4]: Moved conditional uses and special exceptions into PC process

The Board shall have the power to permit the following nonconforming uses:

(1) Nonconforming uses; substitution. The substitution of a nonconforming use existing at the time of enactment of this chapter by another nonconforming use, if no structural alterations except those required by law or resolution are made, provided however, that in an R District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any R District and in a B District, no change shall be authorized to any use which is not a permitted or conditional use in any B District.

(2) Nonconforming uses; extension. The extension of a nonconforming building upon the lot occupied by such building or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became a nonconforming use, ~~that the value of such extension shall not exceed in all twenty-five percent (25%) of the assessed valuation for tax purposes of the existing building devoted to a nonconforming use,~~ that such extension shall be within a distance of not more than fifty (50) feet of the existing building or premises, that such extension shall in any case be undertaken within five years of the enactment of this chapter; and provided further however, that the Board shall not authorize any extension or enlargement which would result in violation of the provisions of this chapter with respect to any adjoining premises, ~~unless a structure in question is exactly within the same footprint as the previous nonconforming structure.~~

Commented [EE5]: Include as a performance measure

(3) Extension of use on border of district. The extension of a use or building into a more restricted district immediately adjacent thereto, but not more than twenty-five feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.

(4) Temporary structures and uses. The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(g) Interpretation of Zoning Map. Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purpose of this chapter. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board and a determination shall be made by the Board.

(h) Administrative Review; Appeals. The Board shall have the power to hear and decide appeals filed as hereinbefore provided, where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the Building Official, Planning Director, or ~~or~~ other administrative official in the enforcement and/or interpretation of the provisions of this chapter.

(i) Variances. The Board shall have the power to authorize variance from the terms, provisions or requirements of this chapter upon appeal in a specific case filed as hereinbefore provided:

(1) Where by reason of the size, shape, physical and/or topographic characteristics of the specific parcel of land on the effective date of this chapter, or other extraordinary physical situation or condition of this property or of the land immediately adjoining the property in question, the literal enforcement of the provisions or requirements of this chapter would result in denial of all economic use of the land, or

(2) Where a developer of land files an application with the Planning Commission to subdivide, resubdivide-recombine or divide a parcel of land and one or more of the lots intended to be created thereby do not meet the requirements of the chapter and, by reason of unique physical conditions relative to this specific property, a literal enforcement of the provisions or requirements of this chapter will be physically impossible or economically destructive of all economic use of the land.

(j) Conditions in Granting a Variance.

(1) In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the chapter and in the public interest. In authorizing a variance with attached conditions, the Board shall require such

evidence, guarantee, bond, surety or other security as it may deem necessary to enforce compliance with the conditions attached to such variance.

(2) The variance granted shall be in direct response to the unique problem presented. That is, a problem in application of side yards shall be met with variance of side yard requirements, not by variance in permitted land use.

(3) The variance granted shall be the least variance required to respond to the problem.

(4) The variance granted shall not be a substantial detriment to adjacent property or impair the purposes of this chapter or the public interest.

(k) **Certifications in Variance.** Upon granting a variance under one of the two conditions specified in subsection (i) hereof, the Board shall certify to the Zoning Inspector and to the Planning Commission:

(1) That the conditions of either subsection (i)(1) or (2) hereof permitting the granting of the variance, have been met.

(2) The manner in which the conditions specified in subsection (j)(2) to (4) hereof have been met, and

(3) The special conditions of the variance, if any, as authorized in subsection (j)(1) hereof.

(l) **Board May Reverse Orders.** In exercising its power, the Board may in conformity with the provisions of statute and of this chapter, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

(m) **Expiration.** If a use is established under a use permit or variance and the use is discontinued for any reason for a period of one (1) year, the permit becomes void and the use may not be resumed unless granted by the Board of Building and Zoning Appeals. For area variances tied to specific projects, a variance granted is only valid for one (1) year, which is fulfilled with the commencement of construction within one (1) year of issuance. Should the one-year time limit lapse, applicants must reapply for a hearing before the Board of Building and Zoning Appeals or the Zoning Certificate becomes null and void.

(Ord. 2021-36. Passed 10-26-21.)

1139.054- CONDITIONAL USE PERMITS

(a) **Purpose.** Planning Commission may grant conditional use permits for certain uses which are not permitted by right under the Zoning Ordinance. Conditional uses include those uses which have some special impact or uniqueness such that their effects on the public health, safety, convenience, comfort, prosperity and general welfare in the City of

Commented [EE6]: Changed to Planning Commission from BZA

Huron cannot be determined in advance of the particular use being proposed for a particular location. At that time, a review of the location, design, configuration and impact is conducted by assessing the proposed use against fixed standards. The review considers the proposal in terms of existing zoning and land use in the vicinity of the use, public and private developments which may be adversely affected by the proposed use, the impacts of the proposed use at the particular location for which it is proposed on the public health, safety, convenience, comfort, prosperity and general welfare, and whether and to what extent all appropriate feasible steps have been taken by the permit applicant to minimize or mitigate any adverse impacts of the proposed use. This review determines whether the proposed use shall be permitted or permitted conditionally by the Board.

(b) Applicability. Any use which is permitted as a conditional use by this Zoning Ordinance shall comply with this section.

(c) Procedures.

(1) An application for a conditional use permit shall be filed with the Planning and Zoning Department on a form prescribed by the Planning Commission, accompanied by an application fee. The application shall contain the following information:

- A. The applicant's name and address and his interest in the subject property;
- B. The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the application;
- C. The street address and legal description of the property;
- D. The zoning classification and present use of the subject property;
- E. The particular provision of this Zoning Ordinance authorizing the proposed conditional use;
- F. A general description of the proposed conditional use;
- G. A site plan and general building plan complying with the requirements prescribed in Section 1139.01 which will become a part of the conditional use permit, if approved;
- H. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations;
- I. A statement explaining how the proposed conditional use will not cause substantial injury to the value, use or enjoyment of other property in the vicinity of the proposed use;
- J. A statement explaining how the proposed conditional use at the proposed location will be compatible with and not injurious to the use and enjoyment of neighboring property, and will not significantly diminish or impair property values within the vicinity; and

K. Any other material and/or information as may be required by the Planning Commission or Council to fulfill the purposes of this section of the Zoning Ordinance and to ensure that the application is in compliance generally with the ordinances of Huron.

(2) Copies of the application shall be distributed internally by the Planning and Zoning Department to other applicable departments.

(d) Public Hearing. See Section 1139.03(e).

(e) Conditional Use Standards. The Planning and Zoning Commission shall hold a public hearing and shall not approve a conditional use unless it finds that such use at the proposed location meets all of the following general requirements:

(1) The proposed use will be harmonious with and in accordance with the general objectives, or with any specific conditional objective or purpose of the Zoning Code and/or Community Plan.

(2) The proposed use will comply with all applicable development standards, except as specifically altered in the approved conditional use.

(3) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

(4) The use will not be hazardous to or have a negative impact on existing or future surrounding uses.

(5) The area and proposed use(s) will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

(6) The proposed use will not be detrimental to the economic welfare of the community.

(7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.

(8) Vehicular approaches to the property shall be so designed as not to create interference with traffic on surrounding public and/or private streets or roads.

(9) The proposed use will not be detrimental to property values in the immediate vicinity.

(10) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(f) Revocation of Conditional Use Permit. A conditional use permit shall become null and void if construction of the proposed use has not begun within one (1) year after approval by the ~~Board of Zoning Appeals~~Planning Commission. The ~~Board-Commission~~ may revoke a conditional use permit upon finding that the use does not comply with the Zoning Ordinance nor the conditions and safeguards established for such use pursuant to Section 1139.04. Upon revocation of a conditional use permit, all buildings and uses shall conform to the standards and requirements of permitted main and accessory uses established for the zoning district.

(g) Mandatory Conditions and Safeguards. Notwithstanding the provisions of Section 1139.04(e), the following conditions and safeguards shall be satisfied prior to the granting of a conditional use permit, except as expressly provided herein below.

(1) Survey and Approval by City Engineer or Consulting City Engineer only when deemed appropriate by the Planning and Zoning Department.

(2) Site Plan in accordance with Section 1139.01

(3) Additional information required. See Section 1139.01

1139.065 ZONING DISTRICT CHANGES AND ZONING REGULATION AMENDMENTS.

(a) Council May Amend Zoning Ordinance. Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may by ordinance, after recommendation thereon by the Planning Commission and subject to the procedure provided in this section, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereinafter established by this chapter or amendments thereof. The Planning Commission shall submit its recommendations regarding all applications or proposals for amendments or supplements. An amendment, supplement, reclassification or change may be initiated by the Commission on its own motion or by a verified application of one or more of the owners or lessees of property within the area proposed to be changed or affected by this chapter. This only applies to content based

(b) Procedure for Change. Applications for change of district boundaries or classifications of property as shown on the Zoning Map shall be submitted to the Commission (with a copy provided to the Clerk of Council), which Commission shall be allowed a reasonable time, not less than thirty days, for submitting its recommendations on a proposed amendment or reclassification to Council. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Commission itself shall

~~be accompanied by its own motion pertaining to such proposed amendment.~~ (b) Procedure for Change. Applications for change of district boundaries or classifications of property as shown on the Zoning Map shall be filed with Council and in turn shall be submitted to the Commission, which shall be allowed a reasonable time, not less than thirty days, for consideration and report to Council. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Commission itself shall be accompanied by its own motion pertaining to such proposed amendment.

Commented [EE7]: New language adopted; removing council action first

(1) List of property owners. Any person or persons desiring change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within 100 feet of any part of the exterior boundaries of the premises the zoning classification of which is proposed to be changed.

(2) Notice and hearing. Before submitting its recommendations on a proposed amendment or reclassification to Council, the Commission may hold a public hearing thereon, notice of which shall be given by one publication in a newspaper of general circulation in the City at least ten days before the date of such hearing. The notice shall state the place and time at which the proposed amendment to the Ordinance, including text and maps, may be examined. If the Ordinance intends to rezone or redistrict ten or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first-class mail, at least twenty (20) days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The failure of delivery of such notice shall not invalidate any such ordinance.

(3) Recommendation to Council. Following their review, the Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. These recommendations shall then be certified to Council.

(4) Council hearing. After receiving from the Commission the certification of such recommendations on the proposed content-based amendment or amendments, and before adoption of such amendment, Council shall hold a public hearing thereon, at least thirty (30) days' notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the City. The 30-day notice shall be waived for minor formatting amendments only.

(5) Council; final action. Following such hearing and after reviewing the recommendations of the Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the text of the Ordinance or the Zoning Map. Council may overrule the recommendations of the Commission by a majority vote of the full membership of Council. ~~Whenever a written~~

~~protest against such proposed amendment or reclassification, signed by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, is filed with the Commission and Council, the ordinance providing for such proposed amendment or reclassification shall not be passed except by a majority vote of Council.~~

(6) Fees. Each application for a zoning amendment, except those initiated by the Planning Commission, shall be accompanied by a fee as prescribed by Council in the Fee Schedule set in Title Nine of the Administrative Code to cover the costs of publishing, posting and/or mailing notices of hearings.

(Ord. 2012-32. Passed 7-24-12.)

1139.076 VALIDITY AND REPEAL.

This Zoning Ordinance and the various chapters, sections and paragraphs thereof are hereby declared to be severable. If any chapter, section, subsection, paragraph, sentence or phrase of this chapter is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(Ord. 2012-32. Passed 7-24-12.)

ORDINANCE NO. 2023-53
Introduced by Mark Claus

AN ORDINANCE REPEALING AND AMENDING AND RESTATING CHAPTER 1139 (ZONING ADMINISTRATION) OF THE HURON CODIFIED ORDINANCES.

WHEREAS, this Council hereby determined the changes and amendments set forth within this Ordinance, including Exhibit "B", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Chapter 1139 (Zoning Administration) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows (refer to Exhibit "A" attached), shall be and hereby is repealed in its entirety.

SECTION 2. That a new revised and restated Chapter 1139 (Zoning Administration) of the Codified Ordinances of the City of Huron, Ohio, as attached hereto and made a part hereof as Exhibit "B", shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. In accordance with Section 3.06 of the Charter of the City of Huron, Ohio, this Ordinance shall take effect thirty (30) days following its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CHAPTER 1139

Zoning Administration

- 1139.01 Enforcement; penalty.**
- 1139.02 Board of Building and Zoning Appeals.**
- 1139.03 District changes and regulation amendments.**
- 1139.04 Validity and repeal.**

CROSS REFERENCES

Board of Building and Zoning Appeals created - see CHTR. 7.02

1139.01 ENFORCEMENT; PENALTY.

(a) Enforcement by Zoning Inspector. The Zoning Inspector, or his designated representative, shall enforce this Zoning Ordinance in accordance with the administrative provisions of the City Building Code and this chapter. All departments, officials and public employees of the City, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this chapter. Any permit or license, issued in conflict with the provisions of this chapter shall be null and void.

(b) Filing Plans. Every application for a zoning certificate shall be accompanied by plans in duplicate, drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; in the case of a proposed new building or structure as would substantially alter its appearance, drawings or sketches showing the front, side and rear elevations of the proposed building or structure, or of the structure as it will appear after the work for which a permit is sought is completed; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. One copy of such plans shall be returned to the owner when the plans are approved by the Zoning Inspector, together with such zoning certificate as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. In any case where the lot is not provided and is not proposed to be provided with a public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the Health Officer of the proposed method of water supply and/or disposal of sanitary wastes.

(c) Zoning Certificate. No owner shall use or permit the use of any structure, building or land or part thereof, hereafter created, erected, changed, converted or enlarged in whole or in part, until a zoning certificate, which may be a part of the building permit, is issued by the Zoning Inspector. Such zoning certificate shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this chapter. The Zoning Inspector shall issue a zoning certificate, provided he is satisfied that the structure, building or premises and the proposed use thereof and the proposed methods of water supply and disposal of sanitary wastes, conform with all applicable requirements of this chapter.

(d) Certificate of Occupancy. A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such building or part is completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file in the office of the City Manager and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

(e) Zoning Inspector to Act Within Thirty Days. The Zoning Inspector shall act upon all such applications on which he is authorized to act by the provisions of this chapter within thirty days after they are filed in full compliance with all the applicable requirements. He shall either issue a zoning certificate within the thirty days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefor. Failure to notify

the applicant in case of such refusals within the thirty days shall entitle the applicant to a zoning certificate, unless the applicant consents to an extension of time.

(f) Fees. A fee shall be charged for an original zoning certificate applied for before the application for a building permit, where such permit is required and issued under the Building Code. For all other zoning certificates, there shall be a fee and the charge therefor, as referenced in Section 1321.13 of the Building Code.

(g) Violation; Penalty. No person, firm or corporation shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any of the provisions of this chapter, or any amendment or supplement thereto adopted by Council. Any person, firm or corporation violating any of the provisions of this chapter or any amendment or supplement thereto, for which no other penalty is provided, shall be fined not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00). Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense.

(h) Violation; Remedy. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, Council, the Law Director, the Zoning Inspector or any adjacent or neighboring property owner, may in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. 2012-32. Passed 7-24-12.)

1139.02 BOARD OF BUILDING AND ZONING APPEALS.

(a) Appointment. There is hereby created a Board of Building and Zoning Appeals consisting of five members who shall be residents who hold no other City office or employment, selected by Council, one each year for overlapping terms of five years. It shall have all the power and authority conferred upon boards of zoning appeals by state law and such other duties as may be imposed upon it by state law. Its members shall serve without compensation.

(b) Procedure. The Board shall adopt its own rules, in accordance with this chapter and elect its own officers annually. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(c) Quorum. Three members of the Board shall constitute a quorum. The Board shall act by resolution; and the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or any other duly authorized administrative officer, or to decide in favor of an applicant in any matter on which it is required to pass under this Zoning Ordinance, of every such determination shall be stated. A member of the Board shall not be qualified to vote if he has not attended the public hearing or if he has a direct or indirect interest in the issue appealed.

(d) Assistance; Other Departments. The Board may call upon the City departments for assistance in the performance of its duties, and such departments shall render such assistance to the Board as may reasonably be required.

(e) Applications, Appeals, Hearings and Stay of Proceedings. An application in cases in which the Board has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Inspector, who shall transmit same to the Board. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Inspector. Such appeal shall be taken within thirty days after the decision, by filing with the secretary of the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

If an application or appeal is received at least five days before a regularly scheduled meeting of the Board, it shall act within forty-five days after such meeting. Failure to act within such period shall be considered approval. Before making any decisions on an application or appeal, the Board shall hold a public hearing at such times as

shall be determined by the Board itself. Special hearings can be arranged at the call of the Chairman. Notices of the time and place of hearings shall be mailed, by regular first-class mail, not less than three days prior to the date of the hearing, to the appellant and to affected property owners owning property located within 100 feet of the property that is the subject of the application or appeal, as the names of such owners appear in the current records of the County Auditor's office, or such notice may be given by publication for two successive weeks prior thereto in a newspaper of general circulation in the City.

Failure to notify any affected property owner, as hereinbefore defined, shall have no effect upon the validity of the proceedings taken by the Board. Each application or appeal shall be accompanied by a fee as prescribed by Council in Section 1321.12 of the Building Code to cover the cost of publishing and/or posting and mailing the notices of the hearing or hearings. At the hearing, any party may appear in person or be represented by an agent or attorney.

Any person or persons, jointly or severally aggrieved by the decision of the Board, may appeal to the Court of Common Pleas that such decision is unreasonable or unlawful. Such petition shall be presented to the Court within thirty days after the filing of the decision in the office of the Board.

A certified copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

A decision of the Board shall not become final until the expiration of five days from the date such decision is made, unless the Board finds the immediate taking of effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board after notice of appeal is filed with him, that by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas on application, on notice to the Zoning Inspector, or by judicial proceedings and on due cause shown.

(f) Powers. The Board of Building and Zoning Appeals shall have the following powers:

The Board shall have the power to hear and decide, in accordance with the provisions of this chapter, applications, filed as hereinbefore provided, for conditional uses, special exceptions or for interpretation of the Zoning Map, or for decision upon other special questions on which the Board is authorized by this Ordinance to pass. In considering an application for a conditional use, a special exception or interpretation of the Zoning Map, the Board shall give due regard to the nature and conditions of all adjacent uses and structures; and in authorizing a conditional use or special exception, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this chapter for the particular conditional use or special exception, as the Board may deem necessary for the protection of adjacent properties and the public interest.

In addition to permitting the conditional uses and special exceptions hereinbefore specified, the Board shall have the power to permit the following conditional uses and special exceptions:

- (1) Nonconforming uses; substitution. The substitution of a nonconforming use existing at the time of enactment of this chapter by another nonconforming use, if no structural alterations except those required by law or resolution are made, provided however, that in an R District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any R District and in a B District, no change shall be authorized to any use which is not a permitted or conditional use in any B District.
- (2) Nonconforming uses; extension. The extension of a nonconforming building upon the lot occupied by such building or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became a nonconforming use, that the value of such extension shall not exceed in all twenty-five percent (25%) of the assessed valuation for tax purposes of the existing building devoted to a nonconforming use, that such extension shall be within a distance of not more than fifty feet of the existing building or premises, that such extension shall in any case be undertaken within five years of the enactment of this chapter; and provided further however, that the Board shall not authorize any extension or enlargement which would result in violation of the provisions of this chapter with respect to any adjoining premises.

- (3) Extension of use on border of district. The extension of a use or building into a more restricted district immediately adjacent thereto, but not more than twenty-five feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.
- (4) Conditional industrial uses. Permitted in the I-1 and I-2 Districts, certain of the industries or uses listed in Sections 1125.04 and 1125.05 as conditionally permitted. In doing so, the Board may require the installation, operation and maintenance in connection with the proposed use, of such devices or such methods of operation, as may in the opinion of the Board be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, water-carried waste, noise, vibration or similar objectionable features, and may further impose such conditions regarding the extent of open spaces between such industries or uses and surrounding properties, where such distance is not specifically indicated, as will tend to prevent or reduce the harm which might otherwise result from the proposed use of surrounding properties and neighborhoods.
- (5) Temporary structures and uses. The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.
- (6) Conditional uses: wind energy conversion systems.
- A. Purpose. The purpose of subsection (f)(6) hereof is to preserve and protect the public health and safety and to promote the orderly land use and development in the City of Huron by the implementation of standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) (wind turbines) shall be governed as a conditional use in any zoning district of the City.
- B. Definitions.
1. A wind energy conversion system (WECS) includes any or all of the following components.
 - a. A turbine with propeller type blades;
 - b. A vertical rotor;
 - c. Other means of capturing the energy of the moving air;
 - d. A tower or a mounting structure;
 - e. An electrical power generator with associated electrical power transmission circuitry;
 - f. A battery or other means of storing energy;
 - g. Other means of transmitting energy (hydraulic, mechanical, etc.);
 - h. Mechanical control mechanisms;
 - i. Electrical/electronic/computer circuitry;
 - j. A foundation;
 - k. Enclosures.
 2. Total height means the distance measured from ground level to the blade extended at its highest point or to the top of the tower, whichever is the highest.
 3. Small wind energy conversion system means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which will be used primarily to reduce on-site consumption of electrical power.
 4. Windmill rotor means that portion of the windmill which includes the blades, hub and shaft.
 5. Windmill tower means the supporting structure on which the rotor, turbine and accessory equipment are mounted.
 6. Commercial wind energy conversion system means a wind energy conversion system consisting of more than one wind turbine and tower, and a wind energy conversion system which will be used primarily for off-site consumption of electrical power.
 7. Wind turbine means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator or rotor; and includes the

turbine, rotor, blade, tower, base and pad transformer (if any) in addition to the wind energy conversion systems designed to mount directly on the roof of existing buildings including residences.

8. Applicant means the person or entity filing an application for a conditional use permit under this subsection (f)(6).

C. Applicability.

1. This subsection is applicable to all Wind Energy Conversion Systems (WECS), small and commercial; and Wind Turbines as defined in this section which are proposed to be constructed or located after the effective date of this section.
2. Wind Energy Conversion Systems and Wind Turbines constructed or located prior to the effective date of this subsection shall not be required to meet the provisions of this subsection provided that any physical modification to such pre-existing Wind Energy Conversion System (WECS) or Wind Turbine that materially alters the size, type and number of any such WECS or Wind Turbine shall require compliance with this subsection. If any preexisting WECS or Wind Turbine is destroyed or damaged to the extent of more than 50 percent of its fair market value at the time of destruction or damage, it shall not be reconstructed except in conformity with this section.

D. Permit requirement.

1. No Wind Energy Conversion System, small or commercial, or Wind Turbine shall be constructed or located within the City of Huron unless a conditional use permit has been issued to the applicant.
2. The conditional use permit application shall be made in compliance with this subsection and be accompanied with a fee for appearances before the Board of Building and Zoning Appeals.
3. Any physical modification to an existing and permitted Wind Energy Conversion System or Wind Turbine that materially alters the size, type and number of such WECS shall require a permit modification under this subsection. Like-kind replacements shall not require a permit modification.
4. An applicant who proposes to construct or locate a Wind Turbine, as defined in this subsection, on the roof of an existing structure shall be required to apply for a conditional use permit and request a variance from the Board of Building and Zoning Appeals.

E. Small Wind Energy Conversion System Requirements.

1. Permitted locations. A small wind energy conversion system is permitted in any zoning district.
2. Setbacks.
 - a. Property lines. A small wind energy conversion system or tower shall be set back from the nearest property line, public road right-of-way and communication and electrical line not less than 1.0 times its total height.
3. Design standards.
 - a. Monopole or freestanding design. The design of the small wind energy conversion system or tower shall be of a monopole or freestanding design without guy wires.
 - b. Minimum blade height. The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground or 30 feet above any structure or obstacle within 50 feet of the tower.
 - c. Access. No tower shall have a climbing apparatus within 15 feet of the ground. All access doors or access ways to towers and electrical equipment shall be able to be locked.
 - d. Noise. No small wind energy conversion system shall generate sounds exceeding 60 dBA as measured at 100 feet from the tower. Noise generated from any small WECS shall also comply with existing City noise ordinance.
 - e. Visual appearance. Small wind energy conversion or tower systems shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. No small wind energy conversion system or tower shall be lighted

unless required by the FAA. No flags, streamers, decorations, advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy conversion system and/or tower.

- f. Electrical interconnections. All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
- g. Signal interference. Efforts shall be made to site small wind energy conversion systems, or towers, to reduce that likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy conversion system or tower owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy conversion system or tower shall cause permanent and material interference with television or other communication signals.

F. Permit applications. Application for a small wind energy conversion system and/or tower shall include the following information:

- 1. Site plan to scale showing the location of the proposed small wind energy conversion system and/or tower and the locations of all existing buildings, structures and property lines, along with distances; and,
- 2. Elevations of the site to scale showing the height, design and configuration of the small wind energy conversion system and the height and distance to all existing structures, buildings, electrical lines and property lines; and
- 3. Standard drawings and an engineering analysis of the systems tower, including weight capacity; and,
- 4. A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site; and,
- 5. Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system; including, the name and address of the manufacturer, model and serial number; and,
- 6. Emergency and normal shutdown procedures; and,
- 7. A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes; and,
- 8. Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator; unless, the system will not be connected to the electricity grid.

G. Commercial wind energy conversion system requirements.

- 1. Permissible locations. A commercial wind energy conversion system may be permitted as a conditional use (special exception) in all commercial and/or Industrial Districts.
- 2. Setbacks.
 - a. Property lines. A commercial wind energy conversion system shall be set back from the nearest property line and public road right-of-way not less than 1.0 times the total height of installation.
 - b. Other uses. No commercial wind energy conversion system shall be located within 1,000 feet of a platted subdivision, park, church, school or playground.
 - c. Inhabited structures. A commercial wind energy conversion system shall be set back from the nearest inhabited building, power line or communication line, not less than 1.0 times its total height.
- 3. Design standards. A commercial wind energy conversion system shall comply with the design standards set forth for small wind energy conversion systems in this section.
- 4. Permit applications. A commercial wind energy conversion system shall comply with the permit application requirements set forth for small wind energy conversion systems in this section.

5. Commercial Wind Energy Conversion Systems shall not be permitted without approval by the Planning Commission .

H. Non-use.

1. Any small wind energy conversion system, commercial wind energy conversion system or tower which complies with the terms of this section which is not used for two (2) years, excluding repairs, shall be removed within six (6) months most closely following the two (2) year period. Failure to remove the system shall be deemed a violation of this subsection.
2. Any small wind energy conversion system or commercial wind energy conversion system which is non-conforming and which is not used for one (1) year, excluding repairs, shall be removed within six (6) months most closely following the one (1) year period. Failure to remove the system shall be deemed a violation of this subsection.

(g) Interpretation of Zoning Map. Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purpose of this chapter. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board and a determination shall be made by the Board.

(h) Administrative Review; Appeals. The Board shall have the power to hear and decide appeals filed as hereinbefore provided, where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the Building Official or other administrative official in the enforcement and/or interpretation of the provisions of this chapter.

(i) Variances. The Board shall have the power to authorize variance from the terms, provisions or requirements of this chapter upon appeal in a specific case filed as hereinbefore provided:

- (1) Where by reason of the size, shape, physical and/or topographic characteristics of the specific parcel of land on the effective date of this chapter, or other extraordinary physical situation or condition of this property or of the land immediately adjoining the property in question, the literal enforcement of the provisions or requirements of this chapter would result in denial of all economic use of the land, or
- (2) Where a developer of land files an application with the Planning Commission to subdivide, resubdivide or divide a parcel of land and one or more of the lots intended to be created thereby do not meet the requirements of the chapter and, by reason of unique physical conditions relative to this specific property, a literal enforcement of the provisions or requirements of this chapter will be physically impossible or economically destructive of all economic use of the land.

(j) Conditions in Granting a Variance.

- (1) In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the chapter and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence, guarantee, bond, surety or other security as it may deem necessary to enforce compliance with the conditions attached to such variance.
 - (2) The variance granted shall be in direct response to the unique problem presented. That is, a problem in application of side yards shall be met with variance of side yard requirements, not by variance in permitted land use.
 - (3) The variance granted shall be the least variance required to respond to the problem.
 - (4) The variance granted shall not be a substantial detriment to adjacent property or impair the purposes of this chapter or the public interest.
- (k) Certifications in Variance. Upon granting a variance under one of the two conditions specified in subsection (i) hereof, the Board shall certify to the Zoning Inspector and to the Planning Commission:
- (1) That the conditions of either subsection (i)(1) or (2) hereof permitting the granting of the variance, have been met.
 - (2) The manner in which the conditions specified in subsection (j)(2) to (4) hereof have been met, and
 - (3) The special conditions of the variance, if any, as authorized in subsection (j)(1) hereof.

(l) Board May Reverse Orders. In exercising its power, the Board may in conformity with the provisions of statute and of this chapter, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.
(Ord. 2021-36. Passed 10-26-21.)

1139.03 DISTRICT CHANGES AND REGULATION AMENDMENTS.

(a) Council May Amend Ordinance. Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may by ordinance, after recommendation thereon by the Planning Commission and subject to the procedure provided in this section, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereinafter established by this chapter or amendments thereof. The Planning Commission shall submit its recommendations regarding all applications or proposals for amendments or supplements. An amendment, supplement, reclassification or change may be initiated by the Commission on its own motion or by a verified application of one or more of the owners or lessees of property within the area proposed to be changed or affected by this chapter.

(b) Procedure for Change. Applications for change of district boundaries or classifications of property as shown on the Zoning Map shall be filed with Council and in turn shall be submitted to the Commission, which shall be allowed a reasonable time, not less than thirty days, for consideration and report to Council. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Commission itself shall be accompanied by its own motion pertaining to such proposed amendment.

- (1) List of property owners. Any person or persons desiring change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within 150 feet of any part of the exterior boundaries of the premises the zoning classification of which is proposed to be changed.
- (2) Notice and hearing. Before submitting its recommendations on a proposed amendment or reclassification to Council, the Commission may hold a public hearing thereon, notice of which shall be given by one publication in a newspaper of general circulation in the City at least ten days before the date of such hearing. The notice shall state the place and time at which the proposed amendment to the Ordinance, including text and maps, may be examined. If the Ordinance intends to rezone or redistrict ten or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first-class mail, at least twenty days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The failure of delivery of such notice shall not invalidate any such ordinance.
- (3) Recommendation to Council. Following their review, the Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. These recommendations shall then be certified to Council.
- (4) Council hearing. After receiving from the Commission the certification of such recommendations on the proposed amendment or amendments, and before adoption of such amendment, Council shall hold a public hearing thereon, at least thirty days' notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the City.
- (5) Council; final action. Following such hearing and after reviewing the recommendations of the Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the text of the Ordinance or the Zoning Map. Council may overrule the recommendations of the Commission by a majority vote of the full embership of Council. Whenever a written protest against such proposed amendment or reclassification, signed by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, is filed with the Commission and Council, the

ordinance providing for such proposed amendment or reclassification shall not be passed except by a majority vote of Council.

- (6) Fees. Each application for a zoning amendment, except those initiated by the Planning Commission, shall be accompanied by a fee as prescribed by Council in Section 1321.12 of the Building Code to cover the costs of publishing, posting and/or mailing notices of hearings.

(Ord. 2012-32. Passed 7-24-12.)

1139.04 VALIDITY AND REPEAL.

This Zoning Ordinance and the various chapters, sections and paragraphs thereof are hereby declared to be severable. If any chapter, section, subsection, paragraph, sentence or phrase of this chapter is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(Ord. 2012-32. Passed 7-24-12.)

CHAPTER 1139 ZONING ADMINISTRATION

- 1139.01 Planning Commission Review
- 1139.02 Procedure for Filing and Review
- 1139.03 Enforcement; penalty.
- 1139.04 Board of Building and Zoning Appeals.
- 1139.05 Conditional Use Permits
- 1139.06 Zoning district changes and zoning regulation amendments.
- 1139.07 Validity and repeal.

CROSS REFERENCES

Board of Building and Zoning Appeals created - see CHTR. 7.02

1139.01 PLANNING COMMISSION REVIEW.

(a) Requirements. Upon the filing of an application for a building permit for every building or structure, other than a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Planning and Zoning Department. The site development plan shall include the following information:

- (1) A scaled drawing showing:
 - A. Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site.
 - B. The location of vehicular ingress and egress and parking spaces, (both existing and proposed) and the dimensions of the same.
 - C. The extent and type of parking lot and driveway paving.
 - D. The location and dimensions of all pedestrian ways and/or sidewalks.
 - E. The location and size of all existing and proposed utilities.
 - F. Complete building elevations and signage including color renderings of the same
 - G. Lighting plan for the site including style and intensity of all parking lot and building mounted lights.
 - H. The plan and method of disposing of all surface water from development area, which drainage plan shall be in accordance with Section 1115.03 of the Subdivision Regulations.
- (2) A written statement containing the following:
 - A. A legal description of the site and a statement of the present ownership of all the land included within the site development area.
 - B. A statement of ownership (names and addresses) and the present use of all properties located within 150 feet of the exterior boundaries of the subject development site.
 - C. A general indication of the expected schedules and/or phases of development.

(b) Design review responsibilities (architectural review) shall be performed by the Planning Commission and shall be in accordance with the rules, regulations, and design guidelines of the Commission for every building or structure with the exception of one and two-family dwellings. Design review shall also include the Planning Commission's review of all signage. The standards used by the Commission for design review shall be in accordance with Chapter 1141.

(c) Upon the filing of an application for a building permit for a single family or a two-family dwelling, the applicant shall also submit a site development plan to the Planning and Zoning Department. The site development plan shall include the following information: A scale drawing showing:

- (1) Existing and proposed land uses and the location of existing and proposed buildings and other accessory structures on the site. house number.
- (2) The location of vehicular ingress and egress and the dimensions of the same.
- (3) The location and dimensions of all pedestrian ways and/or sidewalks.
- (4) The location and size of all existing and proposed utilities.
- (5) Complete building elevations.
- (6) The method of disposing of all surface water from the development area.

(d) Upon the filing of an application for a Building Permit for a Plan of Development larger than 1 acre in size of disturbed area, the applicant shall submit a comprehensive Storm Water Pollution Prevention Plan (SWPPP) to the City Engineer for review. The SWPPP shall meet the requirements set forth in the Title Three, Chapter(s) 1315 and 1317.

1139.02 PROCEDURE FOR FILING AND REVIEW

(a) For all site plans (including design review requirements), with the exception of single or two- family projects, a digital copy and three (3) physical printed copies of the site development plan and all accessory and supporting documents shall be submitted to the Planning and Zoning Department.

(b) For design review submittal, the developer shall submit a digital copy and three (3) physical printed copies of the architectural plan, including accurate color renderings, landscaping, and lighting, and all other materials needed to allow the Planning Commission to make an accurate review of the project in accordance with Chapter 1141. This submittal can be done at the time of filing for the site plan or can be done after the preliminary approval of the site plan by the Commission. The Commission cannot give final approval of the plan and the zoning and building permit may not be issued until the Commission gives their final approval of the complete plan, including the design review portion.

(c) For all Development Projects disturbing 1 or more acres, three (3) copies of the Site SWPPP and all accessory and supporting documents shall be submitted to the City Engineer. The engineer shall review the plans and shall approve or return these with comments and recommendations for revisions within thirty (30) working days after receipt of the plan described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another thirty (30) day review period shall begin.

(d) SWPPP Plans for site larger than one (1) acre must receive approval from the City Engineer before a Building Permit can be issued (See Chapter 1313); for sites smaller than one (1) acre, approval from the City Engineer will be determined on a case-by-case basis.

(e) Site development plans for a building site for single family or two-family dwellings may be approved by the Zoning Inspector, Building Official, and City Engineer without further review by the Planning Commission.

(f) Site development plans for all building sites other than for single family or two-family dwellings shall be submitted by the Zoning Inspector/Building Official to the Planning Commission for review within thirty days of the filing of the plan.

(g) The Planning Commission shall consider such plan at a public meeting; notice of which meeting shall be served by regular mail to all property owners within 150 feet of the exterior boundaries of the subject site and a sign posted on the site no less than three days prior to the public meeting. Such public meeting shall be the next regularly scheduled meeting of the Planning Commission provided the plan is filed with the Planning and Zoning Department by the applicant at least ten (10) days prior to the date of the regular meeting.

(h) Within thirty (30) days from the date of the public meeting considering such change, the Planning Commission shall approve, deny or modify the plan.

(i) Any property owner entitled to notice of the Planning Commission's review (including the design review aspect), as herein provided, and each person submitting a site development plan, shall be entitled to appeal the decision of the Zoning Inspector/Building Official and/or the Planning Commission in approving, modifying, or denying the plan, to the City Council. Such appeal shall be perfected by filing a notice in writing with the Clerk of Council within five (5) days of the decision being appealed. Such notice of appeal shall state in detail the reasons or reason why the decision is being appealed. Any applicant aggrieved by the decision of the City Council, on the appeal described in Subsection (a) above, may appeal said final decision to the Court of the Common Pleas that such decision was unreasonable or unlawful. Such petition shall be filed with the Court within thirty (30) days of the meeting of the City Council at which said decision was made.

(j) Planning and Zoning Staff/Building Official shall not issue a Zoning Permit or a Building Permit and or a Certificate of Occupancy for the structure/project, until all the requirements of the Planning Commission, including design review and SWPPP review, have been fully complied with.

(k) An approval for a site plan and SWPPP shall be in effect for a period of one (1) year from the date of the Commission's approval. If the project is not started with continual work being performed within that time, the approval shall be voided.

1139.03 ENFORCEMENT; PENALTY.

(a) Enforcement by Zoning Inspector. The Zoning Inspector, or his designated representative, shall enforce this Zoning Ordinance in accordance with the administrative provisions of the City Building Code and this chapter. All departments, officials and public employees of the City, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this chapter. Any permit or license, issued in conflict with the provisions of this chapter shall be null and void.

(b) Filing Plans. Every application for a zoning certificate shall be accompanied by plans in duplicate, drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; in the case of a proposed new building or structure as would substantially alter its appearance, drawings or sketches showing the front, side and rear elevations of the proposed building or structure, or of the structure as it will appear after the work for which a permit is sought is completed; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. One copy of such plans shall be returned to the owner when the plans are approved by the Zoning Inspector, together with such zoning certificate as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started. In any case where the lot is not provided and is not proposed to be provided with a public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the Health Officer of the proposed method of water supply and/or disposal of sanitary wastes.

(c) Zoning Certificate. No owner shall use or permit the use of any structure, building or land or part thereof, hereafter created, erected, changed, converted or enlarged in whole or in part, until a zoning certificate, which may be a part of the building permit, is issued by the Zoning Inspector. Such zoning certificate shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this chapter. The Zoning Inspector shall issue a zoning certificate, provided he is satisfied that the structure, building or premises and the proposed use thereof and the proposed methods of water supply and disposal of sanitary wastes, conform with all applicable requirements of this chapter. The zoning certificate is only valid for one (1) year, which is fulfilled with the commencement of construction within one (1) year of issuance. Should the year time limit lapse, applicants may renew their certificate or resubmit for Planning Commission approval at the Director's discretion.

(d) Certificate of Occupancy. A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such building or part is completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file in the Building Department and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

(e) Zoning Inspector to Act Within Thirty Days. The Zoning Inspector shall act upon all such applications on which he is authorized to act by the provisions of this chapter within thirty days after they are filed in full compliance with all the applicable requirements. He shall either issue a zoning certificate within the thirty days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefor. Failure to notify the applicant in case of such refusals within the thirty days shall entitle the applicant to a zoning certificate, unless the applicant consents to an extension of time.

(f) Fees. A fee shall be charged for an original zoning certificate applied for before the application for a building permit, where such permit is required and issued under the Building Code (Chapter 1321). For all other zoning certificates, there shall be a fee and the charge therefor, as referenced in the Fee Schedule.

(g) Violation; Penalty. No person, firm or corporation shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any of the provisions of this chapter, or any amendment or supplement thereto adopted by Council. Any person, firm or corporation violating any of the provisions of this chapter or any amendment or supplement thereto, for which no other penalty is provided, shall be fined an amount prescribed by Council in the Fee Schedule found in the Administrative Code. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense.

(h) Violation; Remedy. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, Council, the Law Director, the Zoning Inspector or any adjacent or neighboring property owner, may in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. 2012-32. Passed 7-24-12.)

1139.04 BOARD OF BUILDING AND ZONING APPEALS.

(a) Appointment. There is hereby created a Board of Building and Zoning Appeals consisting of five members who shall be residents who hold no other City office or employment, selected by Council, one each year for overlapping terms of five years. It shall have all the power and authority conferred upon boards of zoning appeals by state law and such other duties as may be imposed upon it by state law. Its members shall serve without compensation.

(b) Procedure. The Board shall adopt its own rules, in accordance with this chapter and elect its own officers annually. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(c) Quorum. Three members of the Board shall constitute a quorum. The Board shall act by resolution; and the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or any other duly authorized administrative officer, or to decide in favor of an applicant in any matter on which it is required to pass under this Zoning Ordinance, of every such determination shall be stated. A member of the Board shall not be qualified to vote if he has not attended the public hearing or if he has a direct or indirect interest in the issue appealed.

(d) Assistance; Other Departments. The Board may call upon the City departments for assistance in the performance of its duties, and such departments shall render such assistance to the Board as may reasonably be required.

(e) Applications, Appeals, Hearings and Stay of Proceedings. An application in cases in which the Board has original jurisdiction under the provisions of this chapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be

filed with the Zoning Inspector, who shall transmit same to the Board. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Inspector. Such appeal shall be taken within thirty days after the decision, by filing with the secretary of the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

If an application or appeal is received at least five days before a regularly scheduled meeting of the Board, it shall act within forty-five days after such meeting. Failure to act within such period shall be considered approval. Before making any decisions on an application or appeal, the Board shall hold a public hearing at such times as shall be determined by the Board itself. Special hearings can be arranged at the call of the Chairman. Notices of the time and place of hearings shall be mailed, by regular first-class mail, not less than three days prior to the date of the hearing, to the appellant and to affected property owners owning property located within 150 feet of the property that is the subject of the application or appeal, as the names of such owners appear in the current records of the County Auditor's office, or such notice may be given by publication for two successive weeks prior thereto in a newspaper of general circulation in the City. A sign shall also be posted on site indicating the proposed zoning variance(s) not less than three days prior to the meeting.

Failure to notify any affected property owner, as hereinbefore defined, shall have no effect upon the validity of the proceedings taken by the Board. Each application or appeal shall be accompanied by a fee as prescribed by Council to cover the cost of publishing and/or posting and mailing the notices of the hearing or hearings. At the hearing, any party may appear in person or be represented by an agent or attorney.

Any person or persons, jointly or severally aggrieved by the decision of the Board, may appeal to the Court of Common Pleas that such decision is unreasonable or unlawful. Such petition shall be presented to the Court within thirty days after the filing of the decision in the office of the Board.

A certified copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

A decision of the Board shall become effective immediately on the date of the final decision.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board after notice of appeal is filed with him, that by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas on application, on notice to the Zoning Inspector, or by judicial proceedings and on due cause shown.

(f) Powers. The Board of Building and Zoning Appeals shall have the following powers:

- (1) The Board shall have the power to hear and decide, in accordance with the provisions of this chapter, applications, filed as hereinbefore provided, for variances, interpretation of the Zoning Map, interpretation of the Zoning Code or for decision upon other special questions on which the Board is authorized by this Ordinance to pass. In considering an application, the Board shall give due regard to the nature and conditions of all adjacent uses and structures.

(2) The Board shall have the power to permit the following nonconforming uses:

- A. Nonconforming Uses; Substitution. The substitution of a nonconforming use existing at the time of enactment of this chapter by another nonconforming use, if no structural alterations except those required by law or resolution are made, provided however, that in an R District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any R District and in a B District, no change shall be authorized to any use which is not a permitted or conditional use in any B District.
- B. Nonconforming Uses; Extension. The extension of a nonconforming building upon the lot occupied by such building or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became a nonconforming use, that the value of such extension shall not exceed in all twenty-five percent (25%) of the assessed valuation for tax purposes of the existing building devoted to a nonconforming use, that such extension shall be within a distance of not more than fifty (50) feet of the existing building or premises, that such extension shall in any case be undertaken within five years of the enactment of this chapter; and provided further however, that the Board shall not authorize any extension or enlargement which would result in violation of the provisions of this chapter with respect to any adjoining premises, unless a structure in question is exactly within the same footprint as the previous nonconforming structure.
- C. Extension of Use on Border of District. The extension of a use or building into a more restricted district immediately adjacent thereto, but not more than twenty-five feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.
- D. Temporary Structures and Uses. The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(g) Interpretation of Zoning Map. Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purpose of this chapter. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board and a determination shall be made by the Board.

(h) Administrative Review; Appeals. The Board shall have the power to hear and decide appeals filed as hereinbefore provided, where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the Building Official, Planning Director, or other administrative official in the enforcement and/or interpretation of the provisions of this chapter.

(i) Variances. The Board shall have the power to authorize variance from the terms, provisions or requirements of this chapter upon appeal in a specific case filed as hereinbefore provided:

(1) Where by reason of the size, shape, physical and/or topographic characteristics of the specific parcel of land on the effective date of this chapter, or other extraordinary physical situation or condition of this property or of the land immediately adjoining the property in question, the literal enforcement of the provisions or requirements of this chapter would result in denial of all economic use of the land, or

(2) Where a developer of land files an application with the Planning Commission to subdivide, recombine or divide a parcel of land and one or more of the lots intended to be created thereby do not meet the requirements of the chapter and, by reason of unique physical conditions relative to this specific property, a literal enforcement of the provisions or requirements of this chapter will be physically impossible or economically destructive of all economic use of the land.

(3) Conditions in Granting a Variance.

A. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the chapter and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence, guarantee, bond, surety or other security as it may deem necessary to enforce compliance with the conditions attached to such variance.

B. The variance granted shall be in direct response to the unique problem presented. That is, a problem in application of side yards shall be met with variance of side yard requirements, not by variance in permitted land use.

C. The variance granted shall be the least variance required to respond to the problem.

D. The variance granted shall not be a substantial detriment to adjacent property or impair the purposes of this chapter or the public interest.

(4) Certifications in Variance. Upon granting a variance under one of the two conditions specified in subsection (j) hereof, the Board shall certify to the Zoning Inspector and to the Planning Commission:

A. That the conditions of either subsection (1) A or B hereof permitting the granting of the variance, have been met.

B. The manner in which the conditions specified in subsections (3) B through D hereof have been met, and

C. The special conditions of the variance, if any, as authorized in subsection (3)A hereof.

(j) Board May Reverse Orders. In exercising its power, the Board may in conformity with the provisions of statute and of this chapter, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

(k) Expiration. If a use is established under a use permit or variance and the use is discontinued for any reason for a period of one (1) year, the permit becomes void and the use may not be resumed unless granted by the Board of Building and Zoning Appeals. For area variances tied to specific projects, a variance granted is only valid for one (1) year, which is fulfilled with the commencement of construction within one (1) year of issuance. Should the one-year time limit lapse, applicants must reapply for a hearing before the Board of Building and Zoning Appeals or the Zoning Certificate becomes null and void.

(Ord. 2021-36. Passed 10-26-21.)

1139.05 CONDITIONAL USE PERMITS.

(a) Purpose. Planning Commission may grant conditional use permits for certain uses which are not permitted by right under the Zoning Ordinance. Conditional uses include those uses which have some special impact or uniqueness such that their effects on the public health, safety, convenience, comfort, prosperity and general welfare in the City of Huron cannot be determined in advance of the particular use being proposed for a particular location. At that time, a review of the location, design, configuration and impact is conducted by assessing the proposed use against fixed standards. The review considers the proposal in terms of existing zoning and land use in the vicinity of the use, public and private developments which may be adversely affected by the proposed use, the impacts of the proposed use at the particular location for which it is proposed on the public health, safety, convenience, comfort, prosperity and general welfare, and whether and to what extent all appropriate feasible steps have been taken by the permit applicant to minimize or mitigate any adverse impacts of the proposed use. This review determines whether the proposed use shall be permitted or permitted conditionally by the Board.

(b) Applicability. Any use which is permitted as a conditional use by this Zoning Ordinance shall comply with this section.

(c) Procedures.

(1) An application for a conditional use permit shall be filed with the Planning and Zoning Department on a form prescribed by the Planning Commission, accompanied by an application fee. The application shall contain the following information:

- A. The applicant's name and address and his interest in the subject property;
- B. The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the application;
- C. The street address and legal description of the property;
- D. The zoning classification and present use of the subject property;
- E. The particular provision of this Zoning Ordinance authorizing the proposed conditional use;
- F. A general description of the proposed conditional use;
- G. A site plan and general building plan complying with the requirements prescribed in Section 1139.01 which will become a part of the conditional use permit, if approved;
- H. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations;

- I. A statement explaining how the proposed conditional use will not cause substantial injury to the value, use or enjoyment of other property in the vicinity of the proposed use;
- J. A statement explaining how the proposed conditional use at the proposed location will be compatible with and not injurious to the use and enjoyment of neighboring property, and will not significantly diminish or impair property values within the vicinity; and
- K. Any other material and/or information as may be required by the Planning Commission or Council to fulfill the purposes of this section of the Zoning Ordinance and to ensure that the application is in compliance generally with the ordinances of Huron.

(2) Copies of the application shall be distributed internally by the Planning and Zoning Department to other applicable departments.

(d) Public Hearing. See Section 1139.03(e).

(e) Conditional Use Standards. The Planning and Zoning Commission shall hold a public hearing and shall not approve a conditional use unless it finds that such use at the proposed location meets all of the following general requirements:

- (1) The proposed use will be harmonious with and in accordance with the general objectives, or with any specific conditional objective or purpose of the Zoning Code and/or Community Plan.
- (2) The proposed use will comply with all applicable development standards, except as specifically altered in the approved conditional use.
- (3) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- (4) The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
- (5) The area and proposed use(s) will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- (6) The proposed use will not be detrimental to the economic welfare of the community.
- (7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- (8) Vehicular approaches to the property shall be so designed as not to create interference with traffic on surrounding public and/or private streets or roads.
- (9) The proposed use will not be detrimental to property values in the immediate vicinity.
- (10) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(f) Revocation of Conditional Use Permit. A conditional use permit shall become null and void if construction of the proposed use has not begun within one (1) year after approval by the Planning Commission. The Commission may revoke a conditional use permit upon finding that the use does not comply with the Zoning Ordinance nor the conditions and safeguards established for such use pursuant to Section 1139.04. Upon revocation of a conditional use permit, all buildings and uses shall conform to the standards and requirements of permitted main and accessory uses established for the zoning district.

(g) Mandatory Conditions and Safeguards. Notwithstanding the provisions of Section 1139.04(e), the following conditions and safeguards shall be satisfied prior to the granting of a conditional use permit, except as expressly provided herein below.

- (1) Survey and Approval by City Engineer or Consulting City Engineer only when deemed appropriate by the Planning and Zoning Department.
- (2) Site Plan in accordance with Section 1139.01
- (3) Additional information required. See Section 1139.01

1139.06 ZONING DISTRICT CHANGES AND ZONING REGULATION AMENDMENTS.

(a) Council May Amend Zoning Ordinance. Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may by ordinance, after recommendation thereon by the Planning Commission and subject to the procedure provided in this section, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereinafter established by this chapter or amendments thereof. The Planning Commission shall submit its recommendations regarding all applications or proposals for amendments or supplements. An amendment, supplement, reclassification or change may be initiated by the Commission on its own motion or by a verified application of one or more of the owners or lessees of property within the area proposed to be changed or affected by this chapter. This only applies to content based

(b) Procedure for Change. Applications for change of district boundaries or classifications of property as shown on the Zoning Map shall be submitted to the Commission (with a copy provided to the Clerk of Council), which Commission shall be allowed a reasonable time, not less than thirty days, for submitting its recommendations on a proposed amendment or reclassification to Council. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications. Applications for amendments initiated by the Commission itself shall be accompanied by its own motion pertaining to such proposed amendment. (1) List of property owners. Any person or persons desiring change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within 100 feet of any part of the exterior boundaries of the premises the zoning classification of which is proposed to be changed.

(2) Notice and hearing. Before submitting its recommendations on a proposed amendment or reclassification to Council, the Commission may hold a public hearing thereon, notice of which shall be given by one publication in a newspaper of general circulation in the City at least ten days before the date of such hearing. The notice shall state the place and time at which the proposed amendment to the Ordinance, including text and maps, may be examined. If the Ordinance intends to rezone or redistrict ten or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first-class mail, at least twenty (20) days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to

the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list. The failure of delivery of such notice shall not invalidate any such ordinance.

(3) Recommendation to Council. Following their review, the Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. These recommendations shall then be certified to Council.

(4) Council hearing. After receiving from the Commission the certification of such recommendations on the proposed content-based amendment or amendments, and before adoption of such amendment, Council shall hold a public hearing thereon, at least thirty (30) days' notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the City. The 30-day notice shall be waived for minor formatting amendments only.

(5) Council; final action. Following such hearing and after reviewing the recommendations of the Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the text of the Ordinance or the Zoning Map. Council may overrule the recommendations of the Commission by a majority vote of the full membership of Council.

(6) Fees. Each application for a zoning amendment, except those initiated by the Planning Commission, shall be accompanied by a fee as prescribed by Council in the Fee Schedule set in the Administrative Code to cover the costs of publishing, posting and/or mailing notices of hearings.

(Ord. 2012-32. Passed 7-24-12.)

1139.07 VALIDITY AND REPEAL.

This Zoning Ordinance and the various chapters, sections and paragraphs thereof are hereby declared to be severable. If any chapter, section, subsection, paragraph, sentence or phrase of this chapter is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(Ord. 2012-32. Passed 7-24-12.)



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-54 **(second reading)** *(submitted by Erik Engle)*
DATE: January 9, 2024

Subject Matter/Background

This ordinance simply moves Wind Energy out of Zoning Administration and establishes language under Special Provisions as Section 1126.29. There have been no revisions to any subject matter content.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure, and is properly before y

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-54 on its second reading is in order.

[Ordinance No. 2023-54 Add Section 1126.19 Wind Energy \(1\).docx](#)

ORDINANCE NO. 2023-54
Introduced by Mark Claus

AN ORDINANCE AMENDING CHAPTER 1126 (SPECIAL PROVISIONS) OF THE CODIFIED ORDINANCE OF HURON, OHIO TO ESTABLISH A NEW SECTIONS 1126.19 (WIND ENERGY).

WHEREAS, the Council hereby determined the changes and amendment set forth within this Ordinance, including Exhibit "A", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Chapter Chapter 1126 (Special Provisions) is hereby amended to add new Section 1126.19, as follows:

"1126.19 WIND ENERGY

(a) Purpose. The purpose of subsection (f)(6) hereof is to preserve and protect the public health and safety and to promote the orderly land use and development in the City of Huron by the implementation of standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) (wind turbines) shall be governed as a conditional use in any zoning district of the City.

(b) Definitions.

(1) A wind energy conversion system (WECS) includes any or all of the following components:

- A. A turbine with propeller type blades;
- B. A vertical rotor;
- C. Other means of capturing the energy of the moving air;
- D. A tower or a mounting structure;
- E. An electrical power generator with associated electrical power transmission circuitry;
- F. A battery or other means of storing energy;
- G. Other means of transmitting energy (hydraulic, mechanical, etc.);
- H. Mechanical control mechanisms;
- I. Electrical/electronic/computer circuitry;
- J. A foundation;
- K. Enclosures.

(2) Total height means the distance measured from ground level to the blade extended at its highest point or to the top of the tower, whichever is the highest.

(3) Small wind energy conversion system means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which will be used primarily to reduce on-site consumption of electrical power.

(4) Windmill rotor means that portion of the windmill which includes the blades, hub and shaft.

(5) Windmill tower means the supporting structure on which the rotor, turbine and accessory equipment are mounted.

- (6) Commercial wind energy conversion system means a wind energy conversion system consisting of more than one wind turbine and tower, and a wind energy conversion system which will be used primarily for off-site consumption of electrical power.
- (7) Wind turbine means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator or rotor; and includes the turbine, rotor, blade, tower, base and pad transformer (if any) in addition to the wind energy conversion systems designed to mount directly on the roof of existing buildings including residences.
- (8) Applicant means the person or entity filing an application for a conditional use permit under this subsection (f)(6).

(c) Applicability.

- (1) This subsection is applicable to all Wind Energy Conversion Systems (WECS), small and commercial; and Wind Turbines as defined in this section which are proposed to be constructed or located after the effective date of this section.
- (2) Wind Energy Conversion Systems and Wind Turbines constructed or located prior to the effective date of this subsection shall not be required to meet the provisions of this subsection provided that any physical modification to such pre-existing Wind Energy Conversion System (WECS) or Wind Turbine that materially alters the size, type and number of any such WECS or Wind Turbine shall require compliance with this subsection. If any preexisting WECS or Wind Turbine is destroyed or damaged to the extent of more than 50 percent of its fair market value at the time of destruction or damage, it shall not be reconstructed except in conformity with this section. Permit requirement.

(d) Permit Requirement.

- (1) No Wind Energy Conversion System, small or commercial, or Wind Turbine shall be constructed or located within the City of Huron unless a conditional use permit has been issued to the applicant.
- (2) The conditional use permit application shall be made in compliance with this subsection and be accompanied with a fee for appearances before the Board of Building and Zoning Appeals.
- (3) Any physical modification to an existing and permitted Wind Energy Conversion System or Wind Turbine that materially alters the size, type and number of such WECS shall require a permit modification under this subsection. Like-kind replacements shall not require a permit modification.
- (4) An applicant who proposes to construct or locate a Wind Turbine, as defined in this subsection, on the roof of an existing structure shall be required to apply for a conditional use permit and request a variance from the Board of Building and Zoning Appeals.

(e) Small Wind Energy Conversion System Requirements.

- (1) Permitted Locations. A small wind energy conversion system is permitted in any zoning district.

(2) Setbacks; Property lines. A small wind energy conversion system or tower shall be set back from the nearest property line, public road right-of-way and communication and electrical line not less than 1.0 times its total height.

(3) Design Standards.

- A. Monopole or Freestanding Design. The design of the small wind energy conversion system or tower shall be of a monopole or freestanding design without guy wires.
- B. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground or 30 feet above any structure or obstacle within 50 feet of the tower.
- C. Access. No tower shall have a climbing apparatus within 15 feet of the ground. All access doors or access ways to towers and electrical equipment shall be able to be locked.
- D. Noise. No small wind energy conversion system shall generate sounds exceeding 60 dBA as measured at 100 feet from the tower. Noise generated from any small WECS shall also comply with existing City noise ordinance.
- E. Visual Appearance. Small wind energy conversion or tower systems shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. No small wind energy conversion system or tower shall be lighted unless required by the FAA. No flags, streamers, decorations, advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy conversion system and/or tower.
- F. Electrical Interconnections. All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
- G. Signal Interference. Efforts shall be made to site small wind energy conversion systems, or towers, to reduce that likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy conversion system or tower owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy conversion system or tower shall cause permanent and material interference with television or other communication signals.

(f) Permit Applications. Application for a small wind energy conversion system and/or tower shall include the following information:

- (1) Site plan to scale showing the location of the proposed small wind energy conversion system and/or tower and the locations of all existing buildings, structures and property lines, along with distances; and,
- (2) Elevations of the site to scale showing the height, design and configuration of the small wind energy conversion system and the height and distance to all existing structures, buildings, electrical lines and property lines; and
- (3) Standard drawings and an engineering analysis of the systems tower, including weight capacity; and,

- (4) A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site; and,
- (5) Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system; including, the name and address of the manufacturer, model and serial number; and,
- (6) Emergency and normal shutdown procedures; and,
- (7) A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes; and,
- (8) Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator; unless, the system will not be connected to the electricity grid.

(g) Commercial Wind Energy Conversion System Requirements.

- (1) Permissible Locations. A commercial wind energy conversion system may be permitted as a conditional use (special exception) in all commercial and/or Industrial Districts.
- (2) Setbacks.
 - A. Property lines. A commercial wind energy conversion system shall be set back from the nearest property line and public road right-of-way not less than 1.0 times the total height of installation.
 - B. Other Uses. No commercial wind energy conversion system shall be located within 1,000 feet of a platted subdivision, park, church, school or playground.
 - C. Inhabited Structures. A commercial wind energy conversion system shall be set back from the nearest inhabited building, power line or communication line, not less than 1.0 times its total height.
- (3) Design Standards. A commercial wind energy conversion system shall comply with the design standards set forth for small wind energy conversion systems in this section.
- (4) Permit Applications. A commercial wind energy conversion system shall comply with the permit application requirements set forth for small wind energy conversion systems in this section.
- (5) Commercial Wind Energy Conversion Systems shall not be permitted without approval by the Planning Commission .

(h) Non-Use.

- (1) Any small wind energy conversion system, commercial wind energy conversion system or tower which complies with the terms of this section which is not used for two (2) years, excluding repairs, shall be removed within six (6) months most closely following the two (2) year period. Failure to remove the system shall be deemed a violation of this subsection.
- (2) Any small wind energy conversion system or commercial wind energy conversion system which is non-conforming and which is not used for one (1) year, excluding repairs, shall

be removed within six (6) months most closely following the one (1) year period. Failure to remove the system shall be deemed a violation of this subsection."

and shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-51 **(second reading)** *(submitted by Erik Engle)*
DATE: January 9, 2024

Subject Matter/Background

This ordinance establishes rules and regulations for the keeping of chickens (hens) in single and two-family residential zoning districts. This ordinance further establishes language for a permitting process, penalties, revocation, and appeals.

Performance standards include the following:

1. Allowed by right as an accessory use in the R1/R1-A Residential Single-Family or R2 Residential Single- and Two-Family District
2. Only allowing up to 6 hens for personal use
3. Coops or accessory structures housing hens shall be kept at least five (5) feet from the side and rear property lines. All such structures shall be located no less than six (6) feet behind the rearmost wall of the principal structure on the lot. No coops or accessory structures shall be located in the front or side yards.
4. The base surface of a coop and run must not exceed 80 square feet and six feet in height and shall be exempt from the lot coverage restrictions contained in the Zoning Code.
5. The coop and outdoor enclosure must be kept clean, dry and sanitary; free from debris and offensive odors; and devoid of rodents and vermin. It shall be so located that adequate drainage is obtained, normal drying occurs and standing water is not present.
6. There shall be no citywide cap on the number of permits issued. However, the Planning and Zoning Department reserves the right to cap the number of permits pursuant to a recommendation made from either Planning Commission and/or City Council.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-51 on its second reading is in order.

[Ordinance No. 2023-51 Add Section 505.18 Chickens \(2\).docx](#)
[Ordinance No. 2023-51 Exh A \(2\).docx](#)

ORDINANCE NO. 2023-51
Introduced by Mark Claus

AN ORDINANCE AMENDING CHAPTER 505 (ANIMALS AND FOWL) OF THE CODIFIED ORDINANCE OF HURON, OHIO TO ESTABLISH A NEW SECTIONS 505.18 (CHICKENS).

WHEREAS, the Council hereby determined the changes and amendment set forth within this Ordinance, including Exhibit "A", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Chapter 505 (Animals and Fowl) is hereby amended to add new Section 505.18 (Chickens), as attached hereto and made a part hereof as Exhibit "A", shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

Section 505.18 – Chickens

- (a) Notwithstanding any of the foregoing sections, female chickens ("hens," for the purpose of this section), may be kept in the City only in accordance with the following regulations:
1. Zoning districts. Hens may be kept only in an R1/R1-A Residential Single-Family or R2 Residential Single- and Two-Family District.
 2. Application and permit. Before the keeping of hens may occur, a permit shall have first been obtained from the Planning and Zoning Department. The permit application must be accompanied by a set fee paid to the City. New permit applications shall include the following information:
 - i. the name, phone number, home address and email address of the applicant;
 - ii. the size and location of the subject property;
 - iii. a proposal containing the number of hens the applicant seeks to keep on the property;
 - iv. a description of any coop or outdoor enclosure providing precise dimensions and the precise location of these enclosures in relation to property lines and adjacent properties, with specifications and drawings;
 - v. the permission of the property owner for the applicant to keep hens, if the applicant is not the owner;
 - vi. and the applicant's permission for Planning and Zoning Department Official to enter the lot to determine whether the permit should be granted and the use maintained.
 3. Inspection. Within 30 days of the Planning Director or their designee receiving the initial application, he or she shall cause the lot to be inspected. The person(s) inspecting the premises shall determine if the lot dimensions in the application are accurate; determine the feasibility of the applicant meeting the remaining criteria in this section; and note whether any extraordinary circumstances exist, such as outstanding property citations or unsanitary property conditions, or such as the applicant's proximity to other approved or proposed coops such that a neighborhood may be adversely impacted, that would militate against the granting of the application. For new permit applications, an inspection of the coop and any fencing shall be conducted within 30 days' notice from the applicant that the coop has been installed. A determination shall be made, within 30 days of the inspection, whether the permit should be issued.
 4. Personal use, limitations. Hens may be kept only for personal use by persons residing in the principal structure on the lot on which the hens are kept. No hens may be kept on a lot containing more than three dwelling units. Residents of no more than one dwelling unit within a structure may keep hens on that lot. No more than six (6) hens shall be allowed on any lot.
 5. Setbacks. Coops or accessory structures housing hens shall be kept at least five (5) feet from the side and rear property lines. All such structures shall be located no less than six (6) feet behind the rearmost wall of the principal structure on the lot. No coops or accessory structures shall be located in the front or side yards.
 6. Enclosure. The base surface of a coop and run must not exceed 80 square feet and six feet in height and shall be exempt from the lot coverage restrictions contained in the Zoning Code. Hens shall not be allowed out of these enclosures unless the rear yard of the

property is fenced along the rear and side lot lines, and a resident of the property on which the hens are kept is directly monitoring them within the fenced area of the back yard such that the resident is able to immediately return the hens to the cage or coop if necessary. The manufacturer's specifications for the coop, or otherwise adequate drawings including dimensions, shall be submitted for approval together with the application for the permit. Hens shall be kept in a covered, predator-proof coop that is well-ventilated and designed to be accessed for cleaning. The enclosure shall be of uniform and sturdy design and constructed of quality materials. Fencing, if used, shall be securely fastened to posts of reasonable strength firmly set into the ground and shall be stretched tightly between support posts. The enclosure shall be maintained in good repair at all times so as to protect the aesthetics of the neighborhood and to not present a blighted or untidy appearance to the property or to neighbors. Hens shall have access to an outdoor enclosure or run that is adequately fenced to contain the hens on the property, to prevent them from running at large, and to prevent access by predators. The combined area of the coop and run shall allow at least three (3) square feet per hen, and shall otherwise be constructed to provide humane conditions and to ensure the health and well-being of the animals occupying it are not endangered by the manner of keeping or confinement.

7. Sanitation, slaughtering. The coop and outdoor enclosure must be kept clean, dry and sanitary; free from debris and offensive odors; and devoid of rodents and vermin. It shall be so located that adequate drainage is obtained, normal drying occurs and standing water is not present. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste. All feed must be stored in a rodent-proof container. No hens shall be slaughtered except in accordance with, and only if permitted by, O.R.C. Chapter 918.
8. Number and transferability. There shall be no citywide cap on the number of permits issued. However, the Planning and Zoning Department reserves the right to cap the number of permits pursuant to a recommendation made from either Planning Commission and/or City Council.
9. Permit revocation. The Planning Director may revoke a permit at any time if the permit holder materially fails to adhere to the provisions of this section.
10. Appeal. Any denial of a permit application or revocation of a permit may be appealed to the Board of Zoning Appeals pursuant to Chapter 1139 of the Codified Ordinances.
2. No exemption granted pursuant to this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether express or implied to any person, including without limitation the general public, persons residing or passing near the applicant's premises, or the applicant, either in general or individually, as to the danger, or lack thereof, or degree of risk to health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.
3. Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be as deemed committed for each day during or on which a violation occurs or continues.



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-52 (**second reading**) (*submitted by Erik Engle*)
DATE: January 9, 2024

Subject Matter/Background

This ordinance establishes rules and regulations for the keeping of bees in all zoning districts, except for the R-3 multi-family residential district. This ordinance further establishes language for a permitting process, penalties, revocation, and appeals.

Performance standards include the following:

1. 1 per 2500 sf; No more than one beehive shall be kept for each 2,500 square feet tract, and no beehive shall be kept on a tract less than 2,500 square feet in area.
2. No beehive shall be kept closer than five feet to any lot line and ten feet to a dwelling or the permitted placement of a dwelling on another parcel, and no beehive shall be kept in a front yard or side street yard. The front of any beehive shall face away from the property line of the residential property closest to the beehive.
3. Regardless of tract size, so long as all lots within a radius of at least 200 feet from any hive, measured from any point on the hives, remain undeveloped, there shall be no limit to the number of colonies. No grandfathering rights shall accrue under this section.
4. No hives are permitted on any tract where the setback requirements cannot be satisfied regardless of tract size.
5. The beekeeper may be exempt from the setback to adjacent lot lines by obtaining written permission from all the adjacent lot owner(s). The setback to public sidewalks and roadways may not be waived.
6. Each beekeeper shall maintain his or her beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism, and occupancy by swarms.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-52 on its second reading is in order.

[Ordinance No. 2023-52 Add Section 505.19 Bees \(2\).docx](#)

[Ordinance No. 2023-52 Exh A \(2\).docx](#)

ORDINANCE NO. 2023-52
Introduced by Mark Claus

AN ORDINANCE AMENDING CHAPTER 505 (ANIMALS AND FOWL) OF THE CODIFIED ORDINANCE OF HURON, OHIO TO ESTABLISH A NEW SECTIONS 505.19 (BEES).

WHEREAS, the Council hereby determined the changes and amendment set forth within this Ordinance, including Exhibit "A", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Chapter 505 (Animals and Fowl) is hereby amended to add new Section 505.19 (Bees), as attached hereto and made a part hereof as Exhibit "A", shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

Section 505.19 – Bees

(a) Notwithstanding any of the foregoing, bees, and associated hives, may be kept in the City only in accordance with the following regulations:

(1) Definitions. As used in this section, the following words and terms shall have the meanings ascribed in this section.

- A. "Apiary" means any place where one or more colonies or nucleus colony of bees are kept.
- B. "Bees" means any stage of any species of the genus *Apis*.
- C. "Beekeeper" means a person who owns or has charge of one or more colonies of bees.
- D. "Beehive" means any modern frame hive, box hive, box, or any other natural or artificial receptacle, or any part thereof, that may be used as a domicile for bees.
- E. "Colony" means the beehive and its equipment, including bees, combs and brood.
- F. "Beekeeping equipment" means anything used, in the operation of an apiary, such as hive bodies supers, frames, top and bottom boards, hive tools, smoker, gloves, veil, protective clothing, and extracting equipment.
- G. "Tract" means a contiguous parcel or land under common ownership.
- H. "Nuc" or "nucleus colony" means a small hive smaller than the usual hive box designed for a particular purpose.
- I. "Undeveloped property" means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human use occupancy and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

(2) Zoning districts. Bees may be kept in all zoning districts.

(3) Application and permit. Before the keeping of bees may occur, a permit shall first be obtained from the Planning and Zoning Department. Applications shall be filed with the Planning and Zoning Department. The permit application shall be accompanied by a fee paid to the City. Permit applications shall include the following information:

- A. The name, phone number, home address and email address of the applicant;
- B. The size and location of the subject property;
- C. A proposal containing the number of hives the applicant seeks to keep on the property;
- D. The permission of the property owner for the applicant to keep bees, if the beekeeper is not the owner.

All applications shall contain a waiver, signed by the applicant, providing permission for any Planning and Zoning Official to enter the property for the purpose of determining the beekeeper's compliance with this section. Permits shall not be transferable.

(4) Inspection. Within 30 days of the Planning Director or their designee receiving the initial application, they shall cause the lot to be inspected. The person(s) inspecting the premises shall determine if the applicant is in compliance with this code. The person(s) inspecting the premises shall not manipulate any hives during the inspection.

(5) Regulations.

- A. Beekeeper must file the application pursuant to section (a)(3) of this section.
- B. Beekeeper must abide by O.R.C. Chapter 909, Apiaries.
- C. Beekeeper may not opt out of the annual inspection by the county or state bee inspector as part of the Ohio Department of Agriculture's inspection program.
- D. Each beekeeper shall ensure that a convenient source of water is available to the colony at all times bees remain active outside of the hive. The water source shall be closer to the hives than any neighboring source. The water source may be natural such as a pond, stream, or artificial source. The water source shall be on the beekeeper's property.
- E. Each beekeeper shall ensure that no wax, comb, or other material that might encourage robbing by other bees are left upon the grounds of the apiary tract. Such materials once removed from the site shall be handled and stored in sealed containers or placed within a building or other insect-proof container.
- F. For each beehive permitted to be maintained under this section, there may also be maintained one nuc upon the same apiary tract.
- G. No more than one beehive shall be kept for each 2,500 square feet tract, and no beehive shall be kept on a tract less than 2,500 square feet in area. If an applicant has a greater number of beehives than permitted by this section and possessed those beehives prior to the enactment of this section, then the Planning and Zoning Department may grant the application.
- H. No beehive shall be kept closer than five feet to any lot line and ten feet to a dwelling or the permitted placement of a dwelling on another parcel, and no beehive shall be kept in a front yard or side street yard. The front of any beehive shall face away from the property line of the residential property closest to the beehive.
- I. Regardless of tract size, so long as all lots within a radius of at least 200 feet from any hive, measured from any point on the hives, remain undeveloped, there shall be no limit to the number of colonies. No grandfathering rights shall accrue under this section.
- J. No hives are permitted on any tract where the setback requirements cannot be satisfied regardless of tract size.

- K. The beekeeper may be exempt from the setback to adjacent lot lines by obtaining written permission from all the adjacent lot owner(s). The setback to public sidewalks and roadways may not be waived.
- L. Each beekeeper shall maintain their beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism, and occupancy by swarms. It shall not be a defense to this section that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

(6) Permit revocation. The Planning and Zoning Department may revoke a permit at any time if the holder materially fails to adhere to the provisions of this section.

(7) Appeal. Any denial of a permit application or permit revocation may be appealed to the Board of Building Standards pursuant to Section 1139 of the Codified Ordinances.

(b) No exemption granted pursuant to this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether express or implied to any person, including without limitation the general public, persons residing or passing near the applicant's premises, or the applicant, either in general or individually, as to the danger, or lack thereof, or degree of risk to health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.

(c) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be as deemed committed for each day during or on which a violation occurs or continues.



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-55 (**second reading**) (*submitted by Erik Engle*)
DATE: January 9, 2024

Subject Matter/Background

This ordinance establishes the keeping of bees and chickens as uses by right in the single-family and two-family residential districts. It further establishes cross-references to Section 505.18 Chickens and 505.19 Bees for permitting regulations. A redline copy of the changes proposed is attached hereto as Exhibit 1.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-55 on its second reading is in order.

[Ordinance No. 2023-55 Amend Section 1123.01\(c\) Chickens and Bees \(1\).docx](#)

ORDINANCE NO. 2023-55
Introduced by Mark Claus

AN ORDINANCE REPEALING AND AMENDING AND RESTATING SECTION 1123.01(c) (ACCESSORY USES) UNDER CHAPTER 1123 (RESIDENCE DISTRICTS) OF THE HURON CODIFIED ORDINANCES.

WHEREAS, this Council hereby determined the changes and amendments set forth within this Ordinance, including Exhibit "B", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Section 1123.01(c) (Accessory Uses) under Chapter 1123 (Residence Districts) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows:

"(c) Accessory Uses. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed, provided that such accessory uses do not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity, or any billboard, sign or poster other than hereinafter authorized, and not including the boarding of animals or the keeping of fowl or farm animals except in a building at least 100 feet distant from every lot line. Accessory uses may include the following:

- (1) Gardening, the raising of fruits or vegetables, including an incidental roadside stand offering for sale produce grown on the premises, the keeping of domestic or farm animals exclusively for the use of residents of the premises and not for commercial purposes, provided that any heating plant and any structures in which farm animals are kept are located at least 100 feet from every lot line.
- (2) Home occupations, which by definition shall be limited to occupations remunerative in nature carried on in a dwelling solely by persons residing on the premises, such activity not involving the conduct of a retail business or manufacturing business. In connection with such home occupation, there shall be no sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; no commodity shall be sold upon the premises; no parking space or spaces shall be provided or designated to accommodate the home occupation use; no bulk delivery or sending of goods shall be permitted to service the home occupation use, all materials being delivered and sent are required to be so transported within the confines of a normal passenger automobile; not more than twenty-five percent (25%) of the total actual floor area of only one story shall be utilized for such home occupation; there shall be no exterior storage of equipment or materials used in connection with such home occupation; no mechanical or electrical equipment shall be used except such as is permissible for purely domestic or household purposes; no objectionable odor, noise, radio interference or other nuisance shall be created; and no accessory building shall be used for such home occupation. A professional person may use his residence for infrequent consultation,

emergency treatment or performance of religious rites, but not for the general practice of his profession.

- (3) Garages, carports or other parking spaces for the exclusive use of residents of the premises.
- (4) Swimming pools, exclusively for the use of residents and their guests provided that such pool or premises or part thereof whereon such pool is located shall be completely enclosed by a protective fence, wall or other enclosure, not less than four feet in height.
- (5) Real estate, small announcement and professional signs subject to the provisions of Chapter [1126](#), and such other applicable provisions of the Zoning Code.
- (6) Moorages for private pleasure watercraft for the exclusive use of the residents of the premises. Moorage for no more than five pleasure watercraft per dwelling unit is permitted. Rental of moorage or pleasure watercraft in a residential zone is strictly prohibited, as is use by other than blood relatives of the residents of the premises for periods totaling more than ten days in any one calendar year. (Moorage of occupied houseboats, or other lived-in watercraft, is not permitted where the moorage is not a part of a residential site containing a residence with full cooking and sanitary facilities.) Moorage of occupied houseboats or other lived-in watercraft, is not permitted where the occupants of the craft, plus the occupants of the on-shore residence or residences, result in occupation of the site by a number of families in excess of that permitted in that residential zone and the occupants are not blood relatives, for periods in excess of ten days and/or totaling more than twenty days of houseboat unit use in any one calendar year.

(Ord. 1990-20. Passed 11-26-90.)

shall be, and hereby is, repealed in its entirety.

SECTION 2. That new revised and restated Section 1123.01 (Accessory Uses) under Chapter 1123 (Residence Districts) of the Codified Ordinances of the City of Huron, Ohio:

“(c) Accessory Uses. Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed, provided that such accessory uses do not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity, or any billboard, sign or poster other than hereinafter authorized, and not including the boarding of animals or the keeping of fowl or farm animals except in a building at least 100 feet distant from every lot line; exempt are chickens and bees subject to Chapter 505.18 and Chapter 505.19. Accessory uses may include the following:

- (1) Gardening, the raising of fruits or vegetables, including an incidental roadside stand offering for sale produce grown on the premises, the keeping of domestic or farm animals exclusively for the use of residents of the premises and not for commercial purposes, provided that any heating plant and any structures in which farm animals are kept are located at least 100 feet from every lot line.

- (2) Home occupations, which by definition shall be limited to occupations remunerative in nature carried on in a dwelling solely by persons residing on the premises, such activity not involving the conduct of a retail business or manufacturing business. In connection with such home occupation, there shall be no sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; no commodity shall be sold upon the premises; no parking space or spaces shall be provided or designated to accommodate the home occupation use; no bulk delivery or sending of goods shall be permitted to service the home occupation use, all materials being delivered and sent are required to be so transported within the confines of a normal passenger automobile; not more than twenty-five percent (25%) of the total actual floor area of only one story shall be utilized for such home occupation; there shall be no exterior storage of equipment or materials used in connection with such home occupation; no mechanical or electrical equipment shall be used except such as is permissible for purely domestic or household purposes; no objectionable odor, noise, radio interference or other nuisance shall be created; and no accessory building shall be used for such home occupation. A professional person may use his residence for infrequent consultation, emergency treatment or performance of religious rites, but not for the general practice of his profession.
- (3) Garages, carports or other parking spaces for the exclusive use of residents of the premises.
- (4) Swimming pools, exclusively for the use of residents and their guests provided that such pool or premises or part thereof whereon such pool is located shall be completely enclosed by a protective fence, wall or other enclosure, not less than four feet in height.
- (5) Real estate, small announcement and professional signs subject to the provisions of Chapter [1126](#), and such other applicable provisions of the Zoning Code.
- (6) Moorages for private pleasure watercraft for the exclusive use of the residents of the premises. Moorage for no more than five pleasure watercraft per dwelling unit is permitted. Rental of moorage or pleasure watercraft in a residential zone is strictly prohibited, as is use by other than blood relatives of the residents of the premises for periods totaling more than ten days in any one calendar year. (Moorage of occupied houseboats, or other lived-in watercraft, is not permitted where the moorage is not a part of a residential site containing a residence with full cooking and sanitary facilities.) Moorage of occupied houseboats or other lived-in watercraft, is not permitted where the occupants of the craft, plus the occupants of the on-shore residence or residences, result in occupation of the site by a number of families in excess of that permitted in that residential zone and the occupants are not blood relatives, for periods in excess of ten days and/or totaling more than twenty days of houseboat unit use in any one calendar year.
- (7) Keeping of female chickens (hens) subject to meeting the requirements set forth in Chapter 505.18
- (8) Keeping of bees subject to meeting the requirements set forth in Chapter 505.19."

shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. In accordance with Section 3.06 of the Charter of the City of Huron, Ohio, this Ordinance shall take effect thirty (30) days following its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Resolution No. 2023-56 **(second reading)** *(submitted by Erik Engle)*
DATE: January 9, 2024

Subject Matter/Background

This ordinance establishes language for the keeping of bees as a use by right in the B-1 Neighborhood Business zone. All other non-residential zones refer back to the B-1 zoning district, thus establishing beekeeping as use by right in all other business and industrial zones.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-56 on its second reading is in order.

[Ordinance No. 2023-56 Add New Section 1125.01\(a\)\(7\) \(1\).docx](#)

ORDINANCE NO. 2023-56
Introduced by Mark Claus

AN ORDINANCE AMENDING CHAPTER 1125.01 (B-1 NEIGHBORHOOD BUSINESS DISTRICT) UNDER CHAPTER 1125 (NONRESIDENCE DISTRICTS) OF THE CODIFIED ORDINANCE OF HURON, OHIO TO ESTABLISH A NEW SECTION 1125.01(a)(7).

WHEREAS, the Council hereby determined the changes and amendment set forth within this Ordinance, including Exhibit "A", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Section 1125.01 (B-1 Neighborhood Business District) under Chapter 1125 (Nonresidence Districts) is hereby amended to add new Section 1125.01(a)(7), as follows:

"(a)(7) Keeping of bees subject to meeting the requirements set forth in Chapter 505.19."

and shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



TO: Mayor Tapp and City Council
FROM: Erik Engle
RE: Ordinance No. 2023-57 **(second reading)** *(submitted by Erik Engle)*
DATE: January 9, 2024

Subject Matter/Background

This ordinance prohibits the keeping of chickens and bees as uses in the R-3 multi-family residential zone.

Financial Review

There is no financial impact.

Legal Review

The matter has been reviewed, follows nor

Recommendation

If Council is in agreement with the request, a motion placing Ordinance No. 2023-57 on its second reading is in order.

[Ordinance No. 2023-57 Add New Section 1123.04\(f\) Chickens and Bees \(2\).docx](#)

ORDINANCE NO. 2023-57
Introduced by Mark Claus

AN ORDINANCE AMENDING SECTION 1123.04 (R-3 MULTI-FAMILY RESIDENCE DISTRICT) OF CHAPTER 1123 (RESIDENCE DISTRICTS) OF THE CODIFIED ORDINANCE OF HURON, OHIO TO ESTABLISH A NEW SECTION 1123.04(f).

WHEREAS, the Council hereby determined the changes and amendment set forth within this Ordinance, including Exhibit "A", are in the best interest of the City of Huron and its citizens.

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

SECTION 1. That Section 1123.04 (R-3 Multi-Family Residence District) of Chapter 1123 (Residence Districts) is hereby amended to add a new Section 1123.04(f), as follows:

"(f) Prohibited Uses. Notwithstanding any of the foregoing section and chapter, the following uses are strictly prohibited in the R-3 zoning district:

- (1) Keeping of chickens;
- (2) Keeping of bees."

and shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3. That it is hereby 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and it is imperative this Ordinance be effective immediately, WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



TO: Mayor Tapp and City Council
FROM: Terry Graham
RE: Resolution No. 1-2024 (*submitted by Chief Terry Graham*)
DATE: January 9, 2024

Subject Matter/Background

This legislation authorizes a 2-year contract with FLOCK for the purchase of cameras, installation and associated software from FLOCK in the total amount of \$32,250. This amount will be paid in 2 installments: \$17,250 in 2024 and \$15,000 in 2025. The purchase of these license plate reader cameras has been approved by the Safety Committee and is included in the 2024 budget.

Financial Review

This is a two-year contract with Flock totaling \$32,250. If approved, the City will pay \$17,250 in 2024 and \$15,000 in 2025. The anticipated cost was included in the 2024 budget out of the Police Department's budget in the General Fund.

Account: 110-1010- 55204

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

if Council is in agreement with the request, a motion adopting Resolution No. 1-2024 is in order.

[Resolution No. 1-2024 HPD ITS \(Flock\) Cameras Purchase \\$32,250 \(3\).docx](#)

[Resolution No. 1-2024 Exh A Proposal Flock Safety \(1\).docx](#)

[Resolution No. 1-2024 Exh B Flock Safety ITS Camera Purchase Agreement \(1\).docx](#)

RESOLUTION NO. 1-2024
Introduced by Sam Artino

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH FLOCK SAFETY FOR THE PURCHASE OF FIVE (5) FLOCK SAFETY FALCON CAMERAS AND RELATED SOFTWARE FOR THE HURON POLICE DEPARTMENT IN AN AMOUNT NOT TO EXCEED THIRTY-TWO THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$32,250.00)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1: That the City Manager is authorized and directed to enter into an agreement with Flock Safety for the purchase of five (5) Flock Safety Falcon Cameras and related software for the Huron Police Department in an amount not to exceed Thirty-Two Thousand Two Hundred Fifty and 00/100 (\$32,250.00).

SECTION 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22 of the Revised Code.

SECTION 3: This Resolution shall be in full force and effect from and immediately following its adoption.

Monty Tapp, Mayor

ATTEST:

Clerk of Council

ADOPTED:

Flock Safety + OH - Huron PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Rick Lombardo
rick.lombardo@flocksafety.com
4402128813

flock safety



EXHIBIT A
ORDER FORM

Customer: OH - Huron PD
Legal Entity Name: OH - Huron PD
Accounts Payable Email: terry.graham@huronohio.us
Address: 417 Main St Huron, Ohio 44839

Initial Term: 24 Months
Renewal Term: 24 Months
Payment Terms: Net 30
Billing Frequency: Annual Plan - First Year Invoiced at Signing.
Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$15,000.00
Flock Safety Flock OS			
FlockOS™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	5	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	3	\$1,950.00
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	2	\$300.00

Subtotal Year 1: \$17,250.00
Annual Recurring Subtotal: \$15,000.00
Estimated Tax: \$0.00
Contract Total: \$32,250.00

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$17,250.00
Annual Recurring after Year 1	\$15,000.00
Contract Total	\$32,250.00

*Tax not included

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

Package: Essentials

FlockOS Features	Description
Community Cameras (Full Access)	Access to all privately owned Flock devices within your jurisdiction that have been shared with you.
Unlimited Users	Unlimited users for FlockOS
State Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the statewide Flock network.
Nationwide Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the nationwide Flock network.
Direct Share - Surrounding Jurisdiction (Full Access)	Access to all Flock devices owned by law enforcement that have been directly shared with you. Have ability to search by vehicle fingerprint, receive hot list alerts, and view devices on the map.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Flock Insights/Analytics page	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Flock Safety’s maps are powered by ESRI, which offers the ability for 3D visualization, viewing of floor plans, and layering of external GIS data, such as City infrastructure (i.e., public facilities, transit systems, utilities), Boundary mapping (i.e., precincts, county lines, beat maps), and Interior floor plans (i.e., hospitals, corporate campuses, universities)
Real-Time NCIC Alerts on Flock ALPR Cameras	Alert sent when a vehicle entered into the NCIC crime database passes by a Flock camera
Unlimited Custom Hot Lists	Ability to add a suspect’s license plate to a custom list and get alerted when it passes by a Flock camera

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: OH - Huron PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____

Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”) on this the 11 day of December 2023. This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form ("***Retention Period***"). Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as "***Support Services***").

2.4 Upgrades to Platform. Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services, such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock

is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***“Customer Obligations”***).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer ("***Customer Generated Data***"). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party).

Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against

disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or

otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days 'prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days 'notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 Late Fees. If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 Taxes. Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid

by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “***Term***”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “***Renewal Term***”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 Termination. Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“***Cure Period***”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the ***Cure Period***, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 Survival. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a ***“Defect”***), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT

ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 10.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("*Special Terms*"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Flock has the right to reference and use Customer's name and trademarks and disclose the nature of the Services in business and development and marketing efforts.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation, Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A" and "VII". Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).



TO: Mayor Tapp and City Council
FROM: Terry Graham
RE: Ordinance No. 2024-1 (*submitted by Chief Terry Graham*)
DATE: January 9, 2024

Subject Matter/Background

This consent legislation relates to Resolution No. 1-2024, and gives permission for installation of the FLOCK cameras on US-6 being purchased pursuant to Resolution 1-2024.

Financial Review

There is no financial impact relating to this legislation, other than any added construction items requested by the City and not necessary for the project (none are anticipated).

Legal Review

The matter has been reviewed, follows normal legislative procedure, and is properly before you.

Recommendation

If Council is in agreement with the request, a motion adopting Ordinance No. 2024-1 as an emergency measure is in order.

[Ordinance No. 2024-1 ODOT Consent Legislation for ITS \(Flock\) Cameras \(3\).docx](#)

CONSENT LEGISLATION

PID No. 118895

Project Name D3/D4/D12 ITS Camera Additions

Ordinance No. 2024-1

ORDINANCE NO. 2024-1

Introduced by Sam Artino

The following Resolution enacted by the City of Huron of Erie County, Ohio, hereinafter referred to as the City, in the matter of stated described project.

SECTION 1 – Project Description

WHEREAS, the State has identified the need for the described project:

Installing ITS cameras along US-6 in the City of Huron

This project is currently scheduled in summer of 2024.

NOW, THEREFORE, be it ordained by the City of Huron of Erie County, Ohio.

SECTION II – Consent Statement

Being in the public interest, the City gives consent to the Director of Transportation to complete the above-described project.

SECTION III – Cooperation Statement

The City shall cooperate with the Director of Transportation in the above-described project as follows:

- 1) The City gives consent for the above improvement,
- 2) No funds are required from the City except that the City agrees to assume and bear one hundred percent (100% of the total cost for added construction items requested by the City and not necessary for the improvement as determined by the State and the Federal Highway Administration.

SECTION IV – Maintenance

Upon completion of the described Project, and unless otherwise agreed, the City shall:

- 1) Provide adequate maintenance for the described Project in accordance with all applicable state and federal law;
- 2) Provide ample financial provisions, as necessary, for the maintenance of the described project;
- 3) Maintain the right-of-way, keeping it free of obstruction; and hold said right-of-way inviolate for public highway purposes.

PID No. 118895

Project Name D3/D4/D12 ITS Camera Additions

SECTION V – Utilities and Right-of-Way Statement

If City-owned utilities, within a corporation limit or in a private easement outside corporation limits, need to be relocated due to this ODOT project, the City will be reimbursed for any relocation work; ODOT will perform the coordination, relocation, and reimbursement, which shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

SECTION VI – Authority to Sign

The City Manager of said City of Huron is hereby empowered on behalf of the City of Huron to enter into contracts with the Director of Transportation necessary to complete the above-described project.

SECTION VII – Emergency Measure

This Ordinance is hereby declared an emergency measure necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Huron, Ohio, and for the further reason that there exists a deadline for submission of the adopted Ordinance the Ohio Department of Transportation. Wherefore, this Ordinance shall be in full force and effect from and immediately following its adoption.

ADOPTED: _____

Attested: _____
Clerk of Council

Matthew Lasko, City Manager

Attested: _____
Monty Tapp, Mayor

PID No. 118895

Project Name D3/D4/D12 ITS Camera Additions

CERTIFICATE OF COPY
STATE OF OHIO
CITY OF HURON OF ERIE COUNTY, OHIO

I, Terri S. Welkener, as Clerk of City Council of the City of Huron of Erie County, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2024-1 adopted by the Legislative Authority of the said City of Huron on this 9th day of January, 2024; that the publication of such Ordinance has been made and 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 No. 2024-1.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal, if applicable, this 10th day of January, 2024.

Terri S. Welkener, Clerk of Council
City of Huron of Erie County, Ohio

The foregoing is accepted as a basis for proceeding with the project herein described.

For the City of Huron of Erie County, Ohio:

Attest: _____, Date _____
Matthew Lasko, City Manager



TO: Mayor Tapp and City Council
FROM: Stuart Hamilton , Service Director
RE: Resolution No. 3-2024 (*submitted by Stuart Hamilton*)
DATE: January 9, 2024

Subject Matter/Background

This legislation is for Design, bidding and construction administration for our new 2M gallon water tower. We estimate the total cost of the project will be ~\$8.8M, with \$5M in grant funding from the State offsetting this large capital investment. This new tower will over double the amount of water we have in the air, providing our customers additional water security in the event of any drop in pressure.

Financial Review

The total cost, including bidding and construction administration, was included in the 2024 budget for the 2M gallon water tower project.

Contract cost: \$132,250
Fund: Water Capital Fund
Account: 603-9501-55972

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion adopting Resolution No. 3-2024 is in order.

[Resolution No. 3-2024 Kleinfelder Agreement for Design, Bid, Construct Admin for Water Tower \\$132,250 \(1\).doc](#)
[Resolution No. 3-2024 Exh A Kleinfelder Group 2 Million Gallon Water Storage Tower.pdf](#)

RESOLUTION NO. 3-2024
Introduced by Matt Grieves

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE PROPOSAL AND ENTER INTO AN AGREEMENT WITH KLEINFELDER GROUP INC. FOR THE PROVISION OF ENGINEERING DESIGN, BIDDING AND CONSTRUCTION ADMINISTRATION SERVICES RELATED TO THE 2-MILLION-GALLON ELEVATED WATER TOWER PROJECT AT A COST NOT TO EXCEED ONE HUNDRED THIRTY-TWO THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$132,250.00)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That the City Manager is authorized and directed to accept the proposal and enter into an agreement with Kleinfelder Group Inc. for the provision of engineering design, bidding and construction administration services relative to the 2-Million-Gallon Elevated Water Tower Project, at a cost not to exceed One Hundred Thirty-Two Thousand Two Hundred Fifty and 00/100 Dollars (\$132,250.00), which agreement shall be substantially in the form of Exhibit "A" attached hereto and made a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



CLIENT PROFESSIONAL SERVICES AGREEMENT

Huron 2.0 MG Elevated Tank
Huron, Ohio
M2400501.001P

This Agreement is made on: _____, 2024

Between City of Huron, Ohio with offices at 417 Main Street, Huron, Ohio 44839(**Client**)

And Kleinfelder, Inc. with offices at 1168 North Main Street, Bowling Green, Ohio 43402
(**Kleinfelder**).

Recitals

- A. Client wishes to appoint Kleinfelder to provide certain services (the **Services**, as defined below) required by Client or Client's agreement with the Owner on the terms and conditions contained in this Agreement.
- B. Kleinfelder has agreed to perform the Services on the terms and conditions contained in this Agreement.

Now it is agreed as follows:

1. CONTENTS OF AGREEMENT

- 1.1 The parties agree that the documents listed in 1.1(a) through (c) constitute the "**Contract Documents**" of this Agreement. To establish obligations and resolve ambiguities among the Contract Documents, the following order of precedence will prevail:
 - (a) first, amendments and Change Orders issued in accordance with this Agreement;
 - (b) second, Kleinfelder's Proposal, dated August 28, 2023, which Client acknowledges receipt and confirms understanding of, and agreement with the contents thereof, in full (Appendix A);
 - (c) third, this Agreement.
- 1.2 To the extent of any inconsistency between this Agreement and any Prime Agreement, the provisions of this Agreement will always prevail.
- 1.3 Any pre-printed terms and conditions on forms used by either party in the administration of this Agreement are void and do not supplement or replace the terms and conditions of the Contract Documents of this Agreement.

2. APPOINTMENT AND SCOPE OF SERVICES

- 2.1 Kleinfelder shall perform the services set forth in its Proposal attached hereto as Appendix A, and such additional services as Kleinfelder and Client jointly agree in writing (collectively, **Services**). The Proposal also shall specify Client's project for which the Services will be performed (**Project**), the location of Client's Project for providing the Services (**Site**), the time period for performance, the agreed fees, and additional provisions, if any, applicable to such Services. The Services, including any additions and modifications, shall be performed in accordance with this Agreement.
-

3. STANDARD OF CARE

- 3.1 Kleinfelder will perform its Services in a manner consistent with that level of care and skill ordinarily exercised by other members of Kleinfelder's profession practicing in the same locality, under similar conditions and at the date the Services are provided.
- 3.2 Kleinfelder makes no other representation, guarantee or warranty, express or implied, regarding the Services, or any communication (oral or written), certification, report, opinion, or Instrument of Service provided pursuant to this Agreement.
- 3.3 Kleinfelder will not be responsible for the safety procedures employed by any party other than its own employees, subconsultants and subcontractors.
- 3.4 No level of assessment can conclusively determine whether a property or its structures are completely free of geotechnical hazards or hazardous substances (including but not limited to mold). Client represents that it has carefully reviewed the limitations described in the Proposal.
- 3.5 Even with diligent observation, some defects, deficiencies, or omissions may occur. Before exercising any other remedy for any alleged breach by Kleinfelder of this Agreement, Client will direct Kleinfelder in writing to re-perform any defective Services within twelve (12) months after contractor closeout.

4. KLEINFELDER'S RESPONSIBILITIES

- 4.1 Kleinfelder will perform the Services as an independent contractor and not as an agent or employee of Client. Nothing in this Agreement creates any special relationship or fiduciary duty.
- 4.2 Kleinfelder will, as reasonably directed by Client or its authorized agent:
 - (a) provide qualified staff to perform the Services;
 - (b) maintain records of Project activities and costs for no more than three years from its completion of the Services;
 - (c) coordinate to the extent reasonably possible with Client's employees, contractors, consultants so as not to impede the progress of the Project; and
 - (d) require its personnel to maintain a safe, clean and orderly work environment.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its execution, except as to any Services authorized by Client and performed by Kleinfelder beforehand. All Services shall be fully completed no later than November 2024, unless earlier terminated by either party or extended by the parties' mutual written agreement.
 - 5.2 Either party may terminate this Agreement at any time by providing ten (10) days' written notice to the other.
 - 5.3 Within fifteen (15) days from termination Client will pay Kleinfelder on demand for all Services rendered and costs incurred through to the date of any termination and for all agreed upon costs and expenses incurred by Kleinfelder in effecting the termination, including, without limitation, non-cancellable commitments, fixed cost components and other demobilization costs.
-

6. COMPENSATION

- 6.1 Kleinfelder will perform the Services in exchange for the following compensation:

Client will pay a **lump sum** of \$132,250. Kleinfelder will invoice monthly on a percent complete basis for the following services:

• Survey Phase	\$3,600
• Preliminary Design and Site Selection	\$7,250
• Design Phase	\$85,700
• Procurement/Bidding Phase	\$9,250
• Construction Staking	\$1,600
• Construction Administration	\$19,850
• Funding Assistance	\$5,000

Client will pay on a **time and material** basis for Construction Observation services. Kleinfelder will invoice according to its fee schedule attached to the Proposal. Approximate costs of these services are estimated to be \$28,600 based on part-time observation, subject to contractor schedule and production rates. Specialty Tank Inspection services are estimated to be \$50,000 in addition to the part-time observation. Kleinfelder may invoice above this estimated fee for these services if the work period exceeds expected duration.

Total Estimated Base Fee: \$210,850

- 6.2 Client agrees to provide any special invoicing requirements to Kleinfelder in advance of signing this Agreement, to which additional charges may apply.
- 6.3 The hourly rates charged for Kleinfelder's Services are adjusted annually in January of each year to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by Kleinfelder and consistent with Kleinfelder's overall compensation practices and procedures. Kleinfelder reserves the right to periodically adjust its fee schedule.
- 6.4 Kleinfelder will generally submit its invoices to Client on a monthly basis. Client must pay all invoices within thirty (30) days from the date of invoice, with interest at the rate of one and one-half percent (1 1/2 %) per month payable on all outstanding payments. Interest on all outstanding payments will be charged from the initial date of invoice.
- 6.5 Kleinfelder may suspend performance of Services under this Agreement until it has been paid in full for all outstanding payments, including interest charges.
- 6.6 Kleinfelder will be entitled to recover from Client on demand all expenses incurred (including all legal costs and expenses) in recovering any outstanding payments from Client.

7. INSURANCE

- 7.1 Kleinfelder will maintain during the term of this Agreement worker's compensation, commercial general liability, automobile liability and professional indemnity insurance coverage.
- 7.2 Client will maintain during the term of this Agreement adequate insurance coverage and will require and verify any contractors or parties it hires to have adequate insurance coverage. Client agrees that failure to comply with this clause will invalidate any indemnify provided by Kleinfelder under clause 12.1.
-

8. CHANGES TO SCOPE OF SERVICES

- 8.1 Client or Kleinfelder may request to modify the scope of Services, whereon both parties agree to negotiate in good faith and execute a written Change Order. A **Change Order** is an amendment to this Agreement that modifies the Services and specifies the following:
- (a) a change in the terms and conditions of Services;
 - (b) an adjustment in the schedule for performance; and
 - (c) the amount of adjustment in Kleinfelder's compensation.
- 8.2 Kleinfelder will treat as a Change Order any written Client order (including directions, instructions, interpretations, or determinations) which request changes in the Services. Kleinfelder will give Client written notice within a reasonable time of any resulting adjustment in the schedule and compensation. Unless Client objects in writing within 5 business days, the proposed terms of the Change Order with the adjustment in the schedule and price shall become a part of this Agreement.
- 8.3 If Client and Kleinfelder cannot agree upon an equitable adjustment in the schedule and compensation, and Kleinfelder does not sign the Change Order, the disagreement shall be treated as a Dispute under clause 18.

9. FORCE MAJEURE

- 9.1 Kleinfelder will not be liable for delay or failure to perform its Services caused directly or indirectly by circumstances beyond its control, including but not limited to, acts of God, fire, flood, war, sabotage, accident, labor dispute, shortage, government action or inaction, changed conditions, delays resulting from actions or inactions of Client or third parties, Site inaccessibility or inability of others to obtain material, labor, equipment, or transportation.
- 9.2 Should any of the preceding circumstances occur, then the date for completion or any other milestone date shall be adjusted for the delay in accordance with clause 8, provided Kleinfelder reports the delay to Client within a reasonable time of discovery.

10. INSTRUMENTS OF SERVICE

- 10.1 All data, reports, drawings, plans, or other documents (or copies) provided to Kleinfelder by Client for the purposes of this Agreement will, at Client's written request, be returned upon completion of the Services and payment in full for all Services rendered. Client agrees that Kleinfelder may retain one copy of all such documents.
- 10.2 Client agrees:
- (a) all reports, drawings, plans, documents, software, source code, object code, boring logs, field data, field notes, calculations, estimates, laboratory test data and other similar data, documents, and work products (or copies thereof) in any form prepared by Kleinfelder pursuant to this Agreement are instruments of service (**Instruments of Service**), not products;
 - (b) all opinions, certifications, communications (oral or written) or Instruments of Service furnished to Client are intended for the benefit of Client for the specific purposes stated herein and therein, are not intended to inform, guide, or otherwise influence any entities or persons other than Client in relation to the Project, and are not intended or represented to be suited for reuse by Client or others, and;
 - (c) reuse of Instruments of Service on projects or project extensions for which such was not intended will be at the user's sole risk and without Kleinfelder liability, and Client agrees to defend, indemnify, and hold harmless Kleinfelder and Kleinfelder's contractors, consultants, affiliates, directors, and employees from and against all losses, damages and liabilities (including all legal expenses) in connection with such reuse or misuse.
-

- 10.3 Any requests by third parties for reliance upon any communication (oral or written), certification, report, opinion, or Instrument of Service provided by Kleinfelder pursuant to this Agreement will be subject to approval at Kleinfelder's sole discretion and to additional fees, terms, and conditions.

11. CLIENT'S RESPONSIBILITIES

- 11.1 Client agrees to provide and discuss with Kleinfelder on an ongoing basis all available material, data, and information pertaining to the Services, including, without limitation, (i) the composition, quantity, toxicity, or potentially hazardous properties of any material known or believed to be present at any Site, (ii) any hazards that may be present, (iii) the nature and location of underground or otherwise not readily apparent utilities, (iv) summaries and assessments of the Site's past and present compliance status, (v) the status of any judicial or administrative action concerning the Site or Project, and (vi) Client records (in electronic format where possible) for such data as benchmarks, plans, maps, and property ownership; and
- 11.2 Client will ensure the cooperation of Client's employees, contractors, and consultants with Kleinfelder.
- 11.3 Client acknowledges and agrees that Kleinfelder is entitled to rely upon the accuracy and completeness of any information given by Client, its employees, contractors, and consultants.
- 11.4 Client will provide reasonable assistance to obtain data and records concerning the Site or Project in the possession, custody or control of third parties.

12. ALLOCATION OF RISK AND INDEMNITIES

- 12.1 Subject to the limitation of liability provisions of this Agreement, Kleinfelder indemnifies Client against all liabilities, losses or damages caused by the negligence or other fault of Kleinfelder and its employees, agents, representatives, subcontractors, and any other party for whom Kleinfelder is legally responsible (**Kleinfelder Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of the Kleinfelder Parties. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Kleinfelder be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or the Services rendered by Kleinfelder. This clause 12.1 is not intended to and will not in any way be limited by any insurance coverage available to Client under any Kleinfelder insurance policy.
- 12.2 Client indemnifies Kleinfelder against all liabilities, losses or damages caused by the negligence or other fault of Client and its employees, agents, representatives, subcontractors, and all other parties for whom Client is legally responsible (**Client Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of Client Parties when compared to the negligence or other fault of all other applicable persons and entities. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Client be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or services rendered by Client. This clause 12.2 is not intended to and will not in any way be limited by any insurance coverage available to Kleinfelder under any Client, Owner, or Project insurance policy.
- 12.3 Subject to any applicable statutory limitations, the indemnity obligations in this clause 12 shall survive the expiration or termination of this Agreement.

13. LIMITATION OF LIABILITY

- 13.1 The maximum aggregate liability of Kleinfelder arising out of or related to this Agreement, as amended, and including all Change Orders, whether based in contract or tort or otherwise in law or equity, will be limited to the sum total of \$1,000,000.
-

- 13.2 As used in this clause 13, "Kleinfelder" includes Kleinfelder, its affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders, and employees. The limitation of liability established in this clause 13 shall survive the expiration or termination of this Agreement.

14. WAIVER OF CONSEQUENTIAL DAMAGES

- 14.1 Neither party will be liable to the other party for any special, incidental, indirect, exemplary, punitive, penal, or consequential damages however arising incurred by either Kleinfelder or Client or for which either may be liable to a third party.

15. NO CONTROL OF MEANS AND METHODS OF OTHERS

- 15.1 Client agrees:
- (a) Kleinfelder's performance of the Services does not include any job site safety obligations which may be required by or in connection with the Project or the Services or any applicable code or regulation, other than strictly in respect of its own employees; and
 - (b) Kleinfelder will not have control over or charge of the acts or omissions of any contractor or contractors' agents, employees, or subcontractors

16. SITE ACCESS

- 16.1 Client agrees to:
- (a) provide unimpeded and timely access to the Site, including any third party sites, if required;
 - (b) provide an adequate area for Kleinfelder's Site office facilities, equipment storage, and parking;
 - (c) furnish all construction utilities and utility releases necessary for the performance of the Services; and
 - (d) obtain all permits, licenses or authorizations necessary for the performance of the Services.

17. WARRANTY OF TITLE, WASTE OWNERSHIP

- 17.1 Kleinfelder will not take title to or be liable for any hazardous materials found at any Project Site. Any risk of loss with respect to all materials remains with Client or the Site owner, who will be considered the generator of such materials, execute all manifests as the generator of such materials, and be liable for the arrangement, transportation, treatment, and/or disposal of all material. All samples remain the property of Client. Client agrees to promptly, at its cost, remove and lawfully dispose of samples, cuttings, and hazardous materials.

18. DISPUTE RESOLUTION

- 18.1 If a dispute arises out of or relates this Agreement (**Dispute**), the parties agree to submit the Dispute to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (**AAA**). The mediator will be an independent person agreed between the parties from a panel suggested by the Institute or, failing agreement, a mediator appointed by AAA. A party shall not call for mediation of any Dispute after such period of time as would bar the initiation of legal proceedings to litigate such Dispute under the laws of the state in which the Project is located.
- 18.2 Client and Kleinfelder agree that in the event of a Dispute, they will not seek recourse against individual officers, employees, directors, or shareholders of the other party.
- 18.3 A party shall not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause unless the party seeks injunctive or other interlocutory relief.
-

- 18.4 If the Dispute cannot be resolved through mediation, either party may file suit in an appropriate court in the state where the Services are performed.
- 18.5 This clause survives termination or expiry of this Agreement.

19. MISCELLANEOUS

- 19.1 This Agreement is governed and construed in accordance with the laws of the state where the Services are performed. The parties hereby submit to the jurisdiction of the courts of the state where the Services are performed and waive any right to object to any proceedings being brought in those courts.
- 19.2 Waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition, or breach. A waiver is not valid or binding unless made in writing.
- 19.3 If any provision of this Agreement is found by a duly constituted authority to be invalid, void, or unenforceable, all remaining provisions shall continue in force.
- 19.4 This Agreement does not create, nor will it be construed to create, any benefit or right in any third party or any special relationship or fiduciary duty to third parties.
- 19.5 Client and Kleinfelder shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- 19.6 This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter. It supersedes all earlier conduct, prior agreements, and understandings between the parties in connection with its subject matter.
- 19.7 Each party must do anything necessary to give full effect to this Agreement.
- 19.8 All notices, requests or instructions hereunder must be in writing and either hand delivered to the recipient, delivered by registered mail or express mail to the addresses given in this Agreement.
- 19.9 This Agreement cannot be assigned by either party without the prior written approval of the other party. Kleinfelder may subcontract performance of portions of the Services to a qualified subcontractor.
- 19.10 Any amendment or revision to this Agreement must be in writing and signed by both parties. Any oral modification or revision of this Agreement shall not operate to modify this Agreement.
- 19.11 This Agreement may be executed in counterparts, including photo or electronic copies, which taken together shall constitute one original document.
-

IN WITNESS WHEREOF, Client and Kleinfelder have caused this Agreement to be executed on the date first written above.


CLIENT: City of Huron

KLEINFELDER:

By: _____


Printed Name: _____

Title: _____

By:  _____

Printed Name: Thomas Borck P.E.

Title: Project Management Leader

By:  _____

Printed Name: Denise Plummer, P.E.

Title: Senior Project Manager

ATTACHMENTS: Appendix A, Kleinfelder Proposal

August 28, 2023

Appendix A

Mr. Jack Evans
Water Superintendent
City of Huron, Ohio
417 Main Street
Huron, Ohio 44839

Re: City of Huron 2.0 MG Elevated Tank
M2400501.001P

Dear Mr. Evans,

As we discussed recently, Kleinfelder, Inc. proposes to provide professional engineering services to assist the City (Owner) with the design of the 2.0 MG Elevated tank(hereinafter referred to as the “project”), at a location to be determined in the City of Huron, Ohio.

The City shall be responsible for providing a detailed summary of the requirements for the project, including any special considerations or services needed. In addition, the City will provide all pertinent existing data related to this project to Kleinfelder.

Scope of Services:

- **Topographic Survey**
 - Topographic Survey of tank project area including connecting waterline
 - Research and development of existing R/W within the project area.
 - Establishment of control points
 - Establishment of project benchmarks
- **Preliminary Design and Site Selection**
 - Meet with City officials to review and discuss the scope of services, schedule, and potential sites for the tank.
 - Verify suitability of proposed sites for distribution system operation.
 - Discuss tank design options and preferences for layout selection.
 - Develop project schedule and budget
- **Design**
 - Assist the City in obtaining quotes for geotechnical services and stake boring locations.
 - Prepare detailed design plans and develop specifications.
 - Update project schedule.

- Develop a detailed construction cost estimate.
- Review the final plans, specifications, and construction cost estimate with the City. Include alternative tank styles to be bid as alternate bid items if desired by the Owner.
- Prepare appropriate Ohio EPA plan approval forms.
- After approval by the City, submit plans, specifications, and permit to Ohio EPA for review and approval.
- Make any revisions requested by the City and required by OEPA.
- **Bidding & Negotiations**
 - Prepare final drawings and technical specifications for the project and front-end contract documents for bidding.
 - Submit complete bid package to City for review.
 - Submit bid advertisement to local paper and online plan room.
 - Answer contractor questions during bidding, respond to RFI's, issue addenda as required, and update contract documents accordingly. Prepare any necessary Addenda for the project.
- **Construction Staking**
 - Stake proposed tank location and waterline.
- **Construction Administration**
 - Attend pre-construction meeting, prepare agenda and meeting minutes.
 - Review and process shop drawings.
 - Respond to Contractor RFI's.
 - Review, approve and process payment applications.
 - Review and recommend changes to the scope of work.
 - Conduct site visits to ensure project is progressing in conformance with the contract documents.
 - Interface with funding agencies as required.
 - Prepare and coordinate contract close-out documents.
- **Observation**
 - Provide part-time, onsite observation during construction. Critical phase observation is included in this scope.
 - Hold final inspection and prepare, in conjunction with City Staff, a punch list of unfinished items.
 - Provide punchlist to contractor for completion in a timely manner.
 - Provide copies of all construction observation reports to the City.
 - Prepare record drawings of as constructed conditions for the Owner from the Contractor's as-built drawings.
 - Notify Engineer and Owner of any unforeseen conditions, changes and construction related issues which arise.

Assumptions and Excluded Services:

- Preparation of any temporary and/or permanent utility easements.
- Includes advertisement and bidding as one project.

Kleinfelder will complete these design services within fifteen (15) months following execution of this agreement.

If you believe that revisions and/or additional discussions/clarifications are necessary concerning the scope of this project and the services that our firm will provide, please contact our office as soon as possible. If work activities are required which are not included in the basic services described above, Kleinfelder can provide these based on its current hourly rate schedule.

If the City has a budgetary limit for this project, please provide this in writing, so that the project can be designed within those limitations.

If there are any questions or you need additional information, please do not hesitate to contact this office.

Sincerely,

KLEINFELDER, INC.

A handwritten signature in blue ink, reading "Thomas J. Borck", is written over a light blue horizontal line.

Thomas Borck, P. E.
Project Manager Leader



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
12/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Insurance Services West, Inc. Los Angeles CA Office 707 Wilshire Boulevard Suite 2600 Los Angeles CA 90017-0460 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:														
INSURED The Kleinfelder Group, Inc 770 First Ave., Suite 400 San Diego CA 92101 USA	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Zurich American Ins Co</td><td>16535</td></tr><tr><td>INSURER B: Lloyd's Syndicate No. 1967</td><td>AA1120103</td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Zurich American Ins Co	16535	INSURER B: Lloyd's Syndicate No. 1967	AA1120103	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** 570103149085 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	Limits shown as requested							
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <table><tr><td><input type="checkbox"/> CLAIMS-MADE</td><td><input checked="" type="checkbox"/> OCCUR</td></tr></table> GEN'L AGGREGATE LIMIT APPLIES PER: <table><tr><td><input type="checkbox"/> POLICY</td><td><input checked="" type="checkbox"/> PROJECT</td><td><input type="checkbox"/> LOC</td></tr></table> OTHER:	<input type="checkbox"/> CLAIMS-MADE	<input checked="" type="checkbox"/> OCCUR	<input type="checkbox"/> POLICY	<input checked="" type="checkbox"/> PROJECT	<input type="checkbox"/> LOC	Y	Y	GL0612459402	04/01/2023	04/01/2024	EACH OCCURRENCE	\$1,000,000	
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<input type="checkbox"/> POLICY	<input checked="" type="checkbox"/> PROJECT	<input type="checkbox"/> LOC												
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000						
							MED EXP (Any one person)	\$15,000						
							PERSONAL & ADV INJURY	\$1,000,000						
							GENERAL AGGREGATE	\$2,000,000						
							PRODUCTS - COMP/OP AGG	\$2,000,000						
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <table><tr><td><input checked="" type="checkbox"/> ANY AUTO</td><td><input type="checkbox"/> SCHEDULED AUTOS</td></tr><tr><td><input type="checkbox"/> OWNED AUTOS ONLY</td><td><input type="checkbox"/> NON-OWNED AUTOS ONLY</td></tr><tr><td><input type="checkbox"/> HIRED AUTOS ONLY</td><td></td></tr></table>	<input checked="" type="checkbox"/> ANY AUTO	<input type="checkbox"/> SCHEDULED AUTOS	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY	<input type="checkbox"/> HIRED AUTOS ONLY		Y	Y	BAP 6124595-02	04/01/2023	04/01/2024	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
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							AGGREGATE							
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N N/A		Y	WC612459602 All States	04/01/2023	04/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER							
							E.L. EACH ACCIDENT	\$1,000,000						
							E.L. DISEASE-EA EMPLOYEE	\$1,000,000						
							E.L. DISEASE-POLICY LIMIT	\$1,000,000						
B	Environmental Contractor Poll/Prof [E&O]			PSDEF2300647 Claims-Made Policy SIR applies per policy terms & conditions	04/01/2023	04/01/2024	Each Claim Aggregate	\$2,000,000 \$2,000,000						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: New Raw Water Intake and Pump Station with forcemain for Huron WTP and new elevated 2,000,000 gallon water storage tank, Project ongoing date: 1/2/2024. City of Huron is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. A waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the General Liability, Automobile Liability and Workers' Compensation policies. Should General Liability, Automobile Liability, Professional Liability and Workers' Compensation policies be cancelled before the expiration date thereof, the policy provisions of each policy will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy. See Attached for Complete List of Named Insureds.

CERTIFICATE HOLDER City of Huron Attn: Jack Evans 417 Main Street Huron OH 44839 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Insurance Services West, Inc.</i>
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ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED The Kleinfelder Group, Inc	
POLICY NUMBER See Certificate Numbe 570103149085			
CARRIER See Certificate Numbe 570103149085	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

NAMED INSURED SCHEDULE

Kleinfelder, Inc.
 The Kleinfelder Group, Inc.
 Kleinfelder Holdings, LLC
 Kleinfelder Parent, Inc
 Kleinfelder Architecture Northeast, Inc.
 Kleinfelder Australia Pty Ltd
 Kleinfelder Canada, Inc.
 Kleinfelder Colorado 100, LLC
 Kleinfelder Construction Services, Inc
 Kleinfelder Engineering and Geology, P.C.
 Kleinfelder Guam 101, LLC
 Kleinfelder International, Inc
 Kleinfelder Kansas 100, LLC
 Kleinfelder New Mexico 100, LLC
 Kleinfelder Northeast, Inc.
 Kleinfelder Oklahoma 100, LLC
 Kleinfelder PNG Ltd.
 Kleinfelder Southeast, Inc.
 Kleinfelder Texas 100, LLC
 Kleinfelder Texas 200, LLC
 Kleinfelder Utah 100, LLC
 A-1, Inc.- Kleinfelder East, Inc.
 Buys & Associates, Inc. - TKG
 Corrigan Consulting, Inc.- TKG
 Insite Environmental, Inc.- Kleinfelder West, Inc.
 Kowalski Engineering, Inc.- Kleinfelder Central, Inc.
 MCE Group, Inc.- Kleinfelder, Inc.
 Omni Environmental, LLC- Kleinfelder East, Inc.
 Spectrum Exploration, Inc.-TKG
 The Wallace Group, Inc. - Kleinfelder West, Inc.
 TKG Acquisition Corp.
 Trigon Environmental Services, Inc.
 Simon Wong Engineering, Inc.
 Advantage Engineering, LLC - Kleinfelder, Inc.
 Garcia & Associates - Kleinfelder, Inc.
 Poggemeyer Design Group, Inc.
 Design Engineers & Consulting Associates, Inc. (DECA)
 Industrial Fluid Management, Inc.
 CM Works, Inc.
 Gas Transmission Systems, Inc.
 GTS Engineering & Consulting, LLP
 Century Engineering, LLC



Additional Insured – Automatic – Owners, Lessees Or Contractors

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO 6124594-02

Effective Date: 04/01/2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or

b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

(1) Your ongoing operations, with respect to Paragraph 1.a. above; or

(2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

(a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or

b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a)** Your ongoing operations, with respect to Paragraph **2.a.** above; or
- (b)** "Your work" and included in the "products-completed operations hazard", with respect to Paragraph **2.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **2.**, insurance afforded to such additional insured:

- (i)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
 - (ii)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.
- 3.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **3.**, insurance afforded to such additional insured:

- (a)** Only applies to the extent permitted by law;
 - (b)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
 - (c)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.
- 4.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **4.**, insurance afforded to such additional insured:

- (1)** Only applies to the extent permitted by law;
- (2)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3)** Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section **IV – Commercial General Liability Conditions**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **IV – Commercial General Liability Conditions**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **4.b.** of the **Other Insurance** Condition under Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F. Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.

Waiver Of Subrogation (Blanket) Endorsement



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l. Prem	Return Prem.
GLO6124594-02	04/01/2023	04/01/2024	04/01/2023		\$	\$

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition**:

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

Coverage Extension Endorsement



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP6124595-02	04/01/2023	04/01/2024	04/01/2023			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- a. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- b. Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- c. Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- d. Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- (2) Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph B.4.a. of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph 1.a. **Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph **B.3.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.



TO: Mayor Tapp and City Council
FROM: Stuart Hamilton , Service Director
RE: Resolution No. 4-2024 (*submitted by Stuart Hamilton*)
DATE: January 9, 2024

Subject Matter/Background

This legislation is for Design, bidding and construction administration for the City's new Secondary Intake and Sludge Lagoon redesign in the amount of \$344,840.00. We expect the total project to cost ~\$3.5M. This secondary/river intake is another essential step in ensuring our customers water supply. Lake Erie produces a lot of frazzle ice that will block out raw water intake, which in turn means the plant will receive no water to treat. This secondary intake will provide a frazzle ice free intake in the river ensuring that the plant is always supplied raw water to treat and supply our customers.

Financial Review

The total cost, including bidding and construction administration, was included in the 2024 budget for the secondary intake and sludge lagoon project . The City is planning to secure a low interest loan through OWDA to pay for this project.

Contract cost: \$344,840
Fund: Water Capital Fund
Account: 603-9501-55972

Legal Review

The matter has been reviewed, follows normal administrative procedure and is properly before you.

Recommendation

If Council is in agreement with the request, a motion adopting Resolution No. 4-2024 is in order.

[Resolution No. 4-2024 Kleinfelder Group Design Bidding and Construct Admin Contract Alternate Intake and Sludge Lagoon \\$344,840 \(1\).doc](#)
[Resolution No. 4-2024 Exh A Kleinfelder Group Inc. Emergency Intake and Sludge Lagoon.pdf](#)

RESOLUTION NO. 4-2024

Introduced by Joel Hagy

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE PROPOSAL AND ENTER INTO AN AGREEMENT WITH KLEINFELDER GROUP INC. FOR THE PROVISION OF ENGINEERING DESIGN, BIDDING AND CONSTRUCTION ADMINISTRATION SERVICES RELATED TO THE HURON RIVER RAW WATER ALTERNATE INTAKE AND SLUDGE LAGOON SEWER PROJECT AT A COST NOT TO EXCEED THREE HUNDRED FORTY-FOUR THOUSAND EIGHT HUNDRED FORTY AND 00/100 DOLLARS (\$344,840.00)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That the Interim City Manager is authorized and directed to accept the proposal and enter into an agreement with Kleinfelder Group Inc. for the provision of engineering design, bidding and construction administration services relative to the Huron River Alternate Raw Water Intake and Sludge Lagoon Sewer Project, at a cost not to exceed Three Hundred Forty-Four Thousand Eight Hundred Forty and 00/100 Dollars (\$344,840.00), which agreement shall be substantially in the form of Exhibit "A" attached hereto and made a part hereof.

SECTION 2. That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including O.R.C. §121.22.

SECTION 3. That this Resolution shall be in full force and effect from and immediately after its adoption.

Monty Tapp, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____



CLIENT PROFESSIONAL SERVICES AGREEMENT

Huron Emergency Intake and Pump Station with Force Main

Huron, Ohio

MW232536.001P

This Agreement is made on: _____, 2024.

Between City of Huron, Ohio with offices at 417 Main Street, Huron, Ohio 44839 (**Client**)

And Kleinfelder, Inc. with offices at 1168 North Main Street, Bowling Green, Ohio 43402 (**Kleinfelder**).

Recitals

- A. Client wishes to appoint Kleinfelder to provide certain services (the **Services**, as defined below) required by Client or Client's agreement with the Owner on the terms and conditions contained in this Agreement.
- B. Kleinfelder has agreed to perform the Services on the terms and conditions contained in this Agreement.

Now it is agreed as follows:

1. CONTENTS OF AGREEMENT

- 1.1 The parties agree that the documents listed in 1.1(a) through (c) constitute the "**Contract Documents**" of this Agreement. To establish obligations and resolve ambiguities among the Contract Documents, the following order of precedence will prevail:
 - (a) first, amendments and Change Orders issued in accordance with this Agreement;
 - (b) second, Kleinfelder's Proposal, dated July 27, 2023, which Client acknowledges receipt and confirms understanding of, and agreement with the contents thereof, in full (Appendix A);
 - (c) third, this Agreement.
- 1.2 Any pre-printed terms and conditions on forms used by either party in the administration of this Agreement are void and do not supplement or replace the terms and conditions of the Contract Documents of this Agreement.

2. APPOINTMENT AND SCOPE OF SERVICES

- 2.1 Kleinfelder shall perform the services set forth in its Proposal attached hereto as Appendix A, and such additional services as Kleinfelder and Client jointly agree in writing (collectively, **Services**). The Proposal also shall specify Client's project for which the Services will be performed (**Project**), the location of Client's Project for providing the Services (**Site**), the time period for performance, the agreed fees, and additional provisions, if any, applicable to such Services. The Services, including any additions and modifications, shall be performed in accordance with this Agreement.
-

3. STANDARD OF CARE

- 3.1 Kleinfelder will perform its Services in a manner consistent with that level of care and skill ordinarily exercised by other members of Kleinfelder's profession practicing in the same locality, under similar conditions and at the date the Services are provided.
- 3.2 Kleinfelder makes no other representation, guarantee or warranty, express or implied, regarding the Services, or any communication (oral or written), certification, report, opinion, or Instrument of Service provided pursuant to this Agreement.
- 3.3 Kleinfelder will not be responsible for the safety procedures employed by any party other than its own employees, subconsultants and subcontractors.
- 3.4 No level of assessment can conclusively determine whether a property or its structures are completely free of geotechnical hazards or hazardous substances (including but not limited to mold). Client represents that it has carefully reviewed the limitations described in the Proposal.
- 3.5 Even with diligent observation, some defects, deficiencies, or omissions may occur. Before exercising any other remedy for any alleged breach by Kleinfelder of this Agreement, Client will direct Kleinfelder in writing to re-perform any defective Services within twelve (12) months after contractor closeout.

4. KLEINFELDER'S RESPONSIBILITIES

- 4.1 Kleinfelder will perform the Services as an independent contractor and not as an agent or employee of Client. Nothing in this Agreement creates any special relationship or fiduciary duty.
- 4.2 Kleinfelder will, as reasonably directed by Client or its authorized agent:
 - (a) provide qualified staff to perform the Services;
 - (b) maintain records of Project activities and costs for no more than three years from its completion of the Services;
 - (c) coordinate to the extent reasonably possible with Client's employees, contractors, consultants so as not to impede the progress of the Project; and
 - (d) require its personnel to maintain a safe, clean, and orderly work environment.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its execution, except as to any Services authorized by Client and performed by Kleinfelder beforehand. All Services shall be fully completed no later than November 2024, unless earlier terminated by either party or extended by the parties' mutual written agreement.
 - 5.2 Either party may terminate this Agreement at any time by providing ten (10) days' written notice to the other.
 - 5.3 Within fifteen (15) days from termination Client will pay Kleinfelder on demand for all Services rendered and costs incurred through to the date of any termination and for all agreed upon costs and expenses incurred by Kleinfelder in effecting the termination, including, without limitation, non-cancellable commitments, fixed cost components and other demobilization costs.
-

6. COMPENSATION

6.1 Kleinfelder will perform the Services in exchange for the following compensation:

Client will pay a **lump sum** of \$344,840.00. Kleinfelder will invoice monthly on a percent complete basis for the following services:

• Survey Phase	\$10,960
• Preliminary Design Phase	\$15,000
• Design Phase	\$166,100
• Procurement/Bidding Phase	\$20,500
• Project Management and QA/QC	\$26,250
• Construction Staking	\$4,500
• Construction Administration	\$91,780
• Funding Assistance	\$ 9,750

Client will pay on a **time and material** basis for Construction Observation services. Kleinfelder will invoice according to its fee schedule attached to the Proposal. Approximate costs of these services are \$169,000.00 estimate is based upon 210 days of full-time construction, subject to contractor schedule and production rates. Kleinfelder may invoice above this estimated fee for these services.

Total Estimated Base Fee: \$513,840

- 6.2 Client agrees to provide any special invoicing requirements to Kleinfelder in advance of signing this Agreement, to which additional charges may apply.
- 6.3 The hourly rates charged for Kleinfelder's Services are adjusted annually in January of each year to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by Kleinfelder and consistent with Kleinfelder's overall compensation practices and procedures. Kleinfelder reserves the right to periodically adjust its fee schedule.
- 6.4 Kleinfelder will generally submit its invoices to Client on a monthly basis. Client must pay all invoices within thirty (30) days from the date of invoice, with interest at the rate of one and one-half percent (1 1/2 %) per month payable on all outstanding payments. Interest on all outstanding payments will be charged from the initial date of invoice.
- 6.5 Kleinfelder may suspend performance of Services under this Agreement until it has been paid in full for all outstanding payments, including interest charges.
- 6.6 Kleinfelder will be entitled to recover from Client on demand all expenses incurred (including all legal costs and expenses) in recovering any outstanding payments from Client.

7. INSURANCE

- 7.1 Kleinfelder will maintain during the term of this Agreement worker's compensation, commercial general liability, automobile liability and professional indemnity insurance coverage.
-

- 7.2 Client will maintain during the term of this Agreement adequate insurance coverage and will require and verify any contractors or parties it hires to have adequate insurance coverage. Client agrees that failure to comply with this clause will invalidate any indemnify provided by Kleinfelder under clause 12.1.

8. CHANGES TO SCOPE OF SERVICES

- 8.1 Client or Kleinfelder may request to modify the scope of Services, whereon both parties agree to negotiate in good faith and execute a written Change Order. A **Change Order** is an amendment to this Agreement that modifies the Services and specifies the following:
- (a) a change in the terms and conditions of Services;
 - (b) an adjustment in the schedule for performance; and
 - (c) the amount of adjustment in Kleinfelder's compensation.
- 8.2 Kleinfelder will treat as a Change Order any written Client order (including directions, instructions, interpretations, or determinations) which request changes in the Services. Kleinfelder will give Client written notice within a reasonable time of any resulting adjustment in the schedule and compensation. Unless Client objects in writing within 5 business days, the proposed terms of the Change Order with the adjustment in the schedule and price shall become a part of this Agreement.
- 8.3 If Client and Kleinfelder cannot agree upon an equitable adjustment in the schedule and compensation, and Kleinfelder does not sign the Change Order, the disagreement shall be treated as a Dispute under clause 18.

9. FORCE MAJEURE

- 9.1 Kleinfelder will not be liable for delay or failure to perform its Services caused directly or indirectly by circumstances beyond its control, including but not limited to, acts of God, fire, flood, war, sabotage, accident, labor dispute, shortage, government action or inaction, changed conditions, delays resulting from actions or inactions of Client or third parties, Site inaccessibility or inability of others to obtain material, labor, equipment, or transportation.
- 9.2 Should any of the preceding circumstances occur, then the date for completion or any other milestone date shall be adjusted for the delay in accordance with clause 8, provided Kleinfelder reports the delay to Client within a reasonable time of discovery.

10. INSTRUMENTS OF SERVICE

- 10.1 All data, reports, drawings, plans, or other documents (or copies) provided to Kleinfelder by Client for the purposes of this Agreement will, at Client's written request, be returned upon completion of the Services and payment in full for all Services rendered. Client agrees that Kleinfelder may retain one copy of all such documents.
- 10.2 Client agrees:
- (a) all reports, drawings, plans, documents, software, source code, object code, boring logs, field data, field notes, calculations, estimates, laboratory test data and other similar data, documents, and work products (or copies thereof) in any form prepared by Kleinfelder pursuant to this Agreement are instruments of service (**Instruments of Service**), not products;
 - (b) all opinions, certifications, communications (oral or written) or Instruments of Service furnished to Client are intended for the benefit of Client for the specific purposes stated herein and therein, are not
-

- intended to inform, guide, or otherwise influence any entities or persons other than Client in relation to the Project, and are not intended or represented to be suited for reuse by Client or others, and;
- (c) reuse of Instruments of Service on projects or project extensions for which such was not intended will be at the user's sole risk and without Kleinfelder liability, and Client agrees to defend, indemnify, and hold harmless Kleinfelder and Kleinfelder's contractors, consultants, affiliates, directors, and employees from and against all losses, damages and liabilities (including all legal expenses) in connection with such reuse or misuse.

- 10.3 Any requests by third parties for reliance upon any communication (oral or written), certification, report, opinion, or Instrument of Service provided by Kleinfelder pursuant to this Agreement will be subject to approval at Kleinfelder's sole discretion and to additional fees, terms, and conditions.

11. CLIENT'S RESPONSIBILITIES

- 11.1 Client agrees to provide and discuss with Kleinfelder on an ongoing basis all available material, data, and information pertaining to the Services, including, without limitation, (i) the composition, quantity, toxicity, or potentially hazardous properties of any material known or believed to be present at any Site, (ii) any hazards that may be present, (iii) the nature and location of underground or otherwise not readily apparent utilities, (iv) summaries and assessments of the Site's past and present compliance status, (v) the status of any judicial or administrative action concerning the Site or Project, and (vi) Client records (in electronic format where possible) for such data as benchmarks, plans, maps, and property ownership; and
- 11.2 Client will ensure the cooperation of Client's employees, contractors, and consultants with Kleinfelder.
- 11.3 Client acknowledges and agrees that Kleinfelder is entitled to rely upon the accuracy and completeness of any information given by Client, its employees, contractors, and consultants.
- 11.4 Client will provide reasonable assistance to obtain data and records concerning the Site or Project in the possession, custody, or control of third parties.

12. ALLOCATION OF RISK AND INDEMNITIES

- 12.1 Subject to the limitation of liability provisions of this Agreement, Kleinfelder indemnifies Client against all liabilities, losses or damages caused by the negligence or other fault of Kleinfelder and its employees, agents, representatives, subcontractors, and any other party for whom Kleinfelder is legally responsible (**Kleinfelder Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of the Kleinfelder Parties. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Kleinfelder be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or the Services rendered by Kleinfelder. This clause 12.1 is not intended to and will not in any way be limited by any insurance coverage available to Client under any Kleinfelder insurance policy.
- 12.2 Client indemnifies Kleinfelder against all liabilities, losses or damages caused by the negligence or other fault of Client and its employees, agents, representatives, subcontractors, and all other parties for whom Client is legally responsible (**Client Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of Client Parties when compared to the negligence or other fault of all other applicable persons and entities. If California law applies to this Agreement, the parties also expressly agree that this indemnity provision does not include, and in no event shall Client be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or services rendered by Client. This clause 12.2 is not intended to and will not in any way be limited by any insurance coverage available to Kleinfelder under any Client, Owner, or Project insurance policy.
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- 12.3 Subject to any applicable statutory limitations, the indemnity obligations in this clause 12 shall survive the expiration or termination of this Agreement.

13. LIMITATION OF LIABILITY

- 13.1 The maximum aggregate liability of Kleinfelder arising out of or related to this Agreement, as amended, and including all Change Orders, whether based in contract or tort or otherwise in law or equity, will be limited to the sum total of \$1,000,000.
- 13.2 As used in this clause 13, "Kleinfelder" includes Kleinfelder, its affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders, and employees. The limitation of liability established in this clause 13 shall survive the expiration or termination of this Agreement.

14. WAIVER OF CONSEQUENTIAL DAMAGES

- 14.1 Neither party will be liable to the other party for any special, incidental, indirect, exemplary, punitive, penal, or consequential damages however arising incurred by either Kleinfelder or Client or for which either may be liable to a third party.

15. NO CONTROL OF MEANS AND METHODS OF OTHERS

- 15.1 Client agrees:
- (a) Kleinfelder's performance of the Services does not include any job site safety obligations which may be required by or in connection with the Project or the Services or any applicable code or regulation, other than strictly in respect of its own employees; and
 - (b) Kleinfelder will not have control over or charge of the acts or omissions of any contractor or contractors' agents, employees, or subcontractors.

16. SITE ACCESS

- 16.1 Client agrees to:
- (a) provide unimpeded and timely access to the Site, including any third party sites, if required;
 - (b) provide an adequate area for Kleinfelder's Site office facilities, equipment storage, and parking;
 - (c) furnish all construction utilities and utility releases necessary for the performance of the Services; and
 - (d) obtain all permits, licenses, or authorizations necessary for the performance of the Services.
-

17. WARRANTY OF TITLE, WASTE OWNERSHIP

- 17.1 Kleinfelder will not take title to or be liable for any hazardous materials found at any Project Site. Any risk of loss with respect to all materials remains with Client or the Site owner, who will be considered the generator of such materials, execute all manifests as the generator of such materials, and be liable for the arrangement, transportation, treatment, and/or disposal of all material. All samples remain the property of Client. Client agrees to promptly, at its cost, remove and lawfully dispose of samples, cuttings, and hazardous materials.

18. DISPUTE RESOLUTION

- 18.1 If a dispute arises out of or relates this Agreement (**Dispute**), the parties agree to submit the Dispute to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (**AAA**). The mediator will be an independent person agreed between the parties from a panel suggested by the Institute or, failing agreement, a mediator appointed by AAA. A party shall not call for mediation of any Dispute after such period of time as would bar the initiation of legal proceedings to litigate such Dispute under the laws of the state in which the Project is located.
- 18.2 Client and Kleinfelder agree that in the event of a Dispute, they will not seek recourse against individual officers, employees, directors, or shareholders of the other party.
- 18.3 A party shall not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause unless the party seeks injunctive or other interlocutory relief.
- 18.4 If the Dispute cannot be resolved through mediation, either party may file suit in an appropriate court in the state where the Services are performed.
- 18.5 This clause survives termination or expiry of this Agreement.

19. MISCELLANEOUS

- 19.1 This Agreement is governed and construed in accordance with the laws of the state where the Services are performed. The parties hereby submit to the jurisdiction of the courts of the state where the Services are performed and waive any right to object to any proceedings being brought in those courts.
- 19.2 Waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition, or breach. A waiver is not valid or binding unless made in writing.
- 19.3 If any provision of this Agreement is found by a duly constituted authority to be invalid, void, or unenforceable, all remaining provisions shall continue in force.
- 19.4 This Agreement does not create, nor will it be construed to create, any benefit or right in any third party or any special relationship or fiduciary duty to third parties.
- 19.5 Client and Kleinfelder shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- 19.6 This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter. It supersedes all earlier conduct, prior agreements, and understandings between the parties in connection with its subject matter.
-

- 19.7 Each party must do anything necessary to give full effect to this Agreement.
- 19.8 All notices, requests or instructions hereunder must be in writing and either hand delivered to the recipient, delivered by registered mail or express mail to the addresses given in this Agreement.
- 19.9 This Agreement cannot be assigned by either party without the prior written approval of the other party. Kleinfelder may subcontract performance of portions of the Services to a qualified subcontractor.
- 19.10 Any amendment or revision to this Agreement must be in writing and signed by both parties. Any oral modification or revision of this Agreement shall not operate to modify this Agreement.
- 19.11 This Agreement may be executed in counterparts, including photo or electronic copies, which taken together shall constitute one original document.

IN WITNESS WHEREOF, Client and Kleinfelder have caused this Agreement to be executed on the date first written above.

CLIENT: City of Huron

KLEINFELDER:

By: _____

Printed Name: _____

Title: _____

By: Thomas J. Borck

Printed Name: Thomas Borck P.E.

Title: Project Management Leader

By: Denise Plummer

Printed Name: Denise Plummer, P.E.

Title: Area Manager

ATTACHMENTS: Appendix A, Kleinfelder Proposal



July 27, 2023

Appendix A

Mr. Jack Evans
Water Superintendent
City of Huron, Ohio
417 Main Street
Huron, Ohio 44839

Re: City of Huron Water Emergency Intake and Pump Station
MW232536.001P

Dear Mr. Evans,

As we discussed recently, Kleinfelder, Inc. proposes to provide professional engineering services to assist the City (Owner) with the Emergency Intake and Pump Station (hereinafter referred to as the “project”), located at the City Boat Basin and Water Treatment Plant, Huron, Ohio.

The City shall be responsible for providing a detailed summary of the requirements for the project, including any special considerations or services needed. In addition, the City will provide all pertinent existing data related to this project to Kleinfelder.

Scope of Services:

- **Topographic Survey**
 - Topographic Survey of project area including the pump station site and the force main route to the WTP.
 - Research and development of existing R/W within the project area.
 - Establishment of control points
 - Establishment of project benchmarks
 - **Design**
 - Design to be complete in AutoCAD Civil 3D.
 - Review existing conditions, utility conflicts and determine corridor for new force main.
 - Design new 20-inch force main to convey raw water from the emergency intake to the shore well at the WTP.
 - Design new duplex pump station to pump river water from the emergency raw water intake from the Huron River to the WTP. Pump station to have a wet well under it to collect water from the river. Pump station shall also include building over wet well, standby emergency generator, power, ventilation and heating for the station, and site design for the pump station.
-

- Size pumps and layout of pump station.
 - Design emergency 36-inch intake into the Huron River to the pump station.
 - Design new outlet structure for the waste lagoon at the WTP for removal of waste sludge supernatant from the lagoon system.
 - Design of new connection from the lagoon outlet structure to the shore well for recycling water back to the head of the WTP to eliminate the need for an NPDES permit.
 - Estimate probable opinion of construction costs.
 - Schedule and attend design review meetings, prepare agenda, minutes, and action items.
 - Prepare, submit, and interface with review authorities for permit approval (All fees paid directly by the Owner).
 - Submit final drawings and construction estimate to City.
- **Bidding & Negotiations**
 - Prepare technical specifications for the project and front-end contract documents.
 - Submit complete bid package to City for review.
 - Submit bid advertisement to local paper and online plan room.
 - Answer contractor questions during bidding, respond to RFI's, issue addenda, and update contract documents accordingly. Prepare any necessary Addenda for the project.
 - Attend bid opening, review bids, and prepare letter of recommendation to County for award of contract.
- **Construction Staking**
 - Stake proposed force main, intake and pump station. Also stake the outlet structure and conveyance line to the shorewell.
- **Construction Administration**
 - Attend pre-construction meeting, prepare agenda and meeting minutes.
 - Review and process shop drawings.
 - Respond to Contractor RFI's.
 - Review, approve and process payment applications.
 - Review and recommend changes to the scope of work.
 - Conduct site visits to ensure project is progressing in conformance with the contract documents.
 - Interface with funding agencies as required.
 - Prepare and coordinate contract close-out documents.
- **Observation**
 - Complete daily construction reports and record as-built conditions.
 - Notify Engineer and Owner of any unforeseen conditions, changes and construction related issues which arise.

Assumptions and Excluded Services:

- Preparation of any temporary and/or permanent utility easements.
 - Includes advertisement and bidding as one project.
-

Kleinfelder will complete these design services within fifteen (15) months following execution of this agreement.

If you believe that revisions and/or additional discussions/clarifications are necessary concerning the scope of this project and the services that our firm will provide, please contact our office as soon as possible. If work activities are required which are not included in the basic services described above, Kleinfelder can provide these based on its current hourly rate schedule.

If the City has a budgetary limit for this project, please provide this in writing, so that the project can be designed within those limitations.

If there are any questions or you need additional information, please do not hesitate to contact this office.

Sincerely,

KLEINFELDER, INC.

A handwritten signature in blue ink, reading "Thomas J. Borck", written over a horizontal line.

Thomas Borck, P. E.
Project Manager Leader



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
12/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Insurance Services West, Inc. Los Angeles CA Office 707 Wilshire Boulevard Suite 2600 Los Angeles CA 90017-0460 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:														
INSURED The Kleinfelder Group, Inc 770 First Ave., Suite 400 San Diego CA 92101 USA	<table><tr><td>INSURER(S) AFFORDING COVERAGE</td><td>NAIC #</td></tr><tr><td>INSURER A: Zurich American Ins Co</td><td>16535</td></tr><tr><td>INSURER B: Lloyd's Syndicate No. 1967</td><td>AA1120103</td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Zurich American Ins Co	16535	INSURER B: Lloyd's Syndicate No. 1967	AA1120103	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** 570103149085 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	Limits shown as requested	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	GL0612459402	04/01/2023	04/01/2024	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
							MED EXP (Any one person)	\$15,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BAP 6124595-02	04/01/2023	04/01/2024	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						EACH OCCURRENCE	
							AGGREGATE	
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N N/A		Y	WC612459602 All States	04/01/2023	04/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE-EA EMPLOYEE	\$1,000,000
							E.L. DISEASE-POLICY LIMIT	\$1,000,000
B	Environmental Contractor Poll/Prof [E&O]			PSDEF2300647 Claims-Made Policy SIR applies per policy terms & conditions	04/01/2023	04/01/2024	Each Claim Aggregate	\$2,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: New Raw Water Intake and Pump Station with forcemain for Huron WTP and new elevated 2,000,000 gallon water storage tank, Project ongoing date: 1/2/2024. City of Huron is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. A waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the General Liability, Automobile Liability and Workers' Compensation policies. Should General Liability, Automobile Liability, Professional Liability and Workers' Compensation policies be cancelled before the expiration date thereof, the policy provisions of each policy will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy. See Attached for Complete List of Named Insureds.

CERTIFICATE HOLDER City of Huron Attn: Jack Evans 417 Main Street Huron OH 44839 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Insurance Services West, Inc.</i>
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ADDITIONAL REMARKS SCHEDULE

Page _ of _

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED The Kleinfelder Group, Inc	
POLICY NUMBER See Certificate Numbe 570103149085			
CARRIER See Certificate Numbe 570103149085	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

NAMED INSURED SCHEDULE

Kleinfelder, Inc.
 The Kleinfelder Group, Inc.
 Kleinfelder Holdings, LLC
 Kleinfelder Parent, Inc
 Kleinfelder Architecture Northeast, Inc.
 Kleinfelder Australia Pty Ltd
 Kleinfelder Canada, Inc.
 Kleinfelder Colorado 100, LLC
 Kleinfelder Construction Services, Inc
 Kleinfelder Engineering and Geology, P.C.
 Kleinfelder Guam 101, LLC
 Kleinfelder International, Inc
 Kleinfelder Kansas 100, LLC
 Kleinfelder New Mexico 100, LLC
 Kleinfelder Northeast, Inc.
 Kleinfelder Oklahoma 100, LLC
 Kleinfelder PNG Ltd.
 Kleinfelder Southeast, Inc.
 Kleinfelder Texas 100, LLC
 Kleinfelder Texas 200, LLC
 Kleinfelder Utah 100, LLC
 A-1, Inc.- Kleinfelder East, Inc.
 Buys & Associates, Inc. - TKG
 Corrigan Consulting, Inc.- TKG
 Insite Environmental, Inc.- Kleinfelder West, Inc.
 Kowalski Engineering, Inc.- Kleinfelder Central, Inc.
 MCE Group, Inc.- Kleinfelder, Inc.
 Omni Environmental, LLC- Kleinfelder East, Inc.
 Spectrum Exploration, Inc.-TKG
 The Wallace Group, Inc. - Kleinfelder West, Inc.
 TKG Acquisition Corp.
 Trigon Environmental Services, Inc.
 Simon Wong Engineering, Inc.
 Advantage Engineering, LLC - Kleinfelder, Inc.
 Garcia & Associates - Kleinfelder, Inc.
 Poggemeyer Design Group, Inc.
 Design Engineers & Consulting Associates, Inc. (DECA)
 Industrial Fluid Management, Inc.
 CM Works, Inc.
 Gas Transmission Systems, Inc.
 GTS Engineering & Consulting, LLP
 Century Engineering, LLC



Additional Insured – Automatic – Owners, Lessees Or Contractors

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO 6124594-02

Effective Date: 04/01/2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or

b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

(1) Your ongoing operations, with respect to Paragraph 1.a. above; or

(2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

(a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

(b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or

b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a)** Your ongoing operations, with respect to Paragraph **2.a.** above; or
- (b)** "Your work" and included in the "products-completed operations hazard", with respect to Paragraph **2.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **2.**, insurance afforded to such additional insured:

- (i)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
 - (ii)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.
- 3.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:
- a.** Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
 - b.** With respect to ongoing operations (if no form is specified),
- such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **3.**, insurance afforded to such additional insured:

- (a)** Only applies to the extent permitted by law;
 - (b)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
 - (c)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.
- 4.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **4.**, insurance afforded to such additional insured:

- (1)** Only applies to the extent permitted by law;
- (2)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3)** Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section **IV – Commercial General Liability Conditions**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **IV – Commercial General Liability Conditions**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **4.b.** of the **Other Insurance** Condition under Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F. Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.

Waiver Of Subrogation (Blanket) Endorsement



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l. Prem	Return Prem.
GLO6124594-02	04/01/2023	04/01/2024	04/01/2023		\$	\$

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition**:

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

Coverage Extension Endorsement



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP6124595-02	04/01/2023	04/01/2024	04/01/2023			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
 - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
 - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

1. The Exclusion in Paragraph B.4.a. of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
2. The following is added to Paragraph 1.a. **Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph **B.3.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.

EXHIBIT A

TO MOTION APPOINTING CITY COUNCIL MEMBERS TO VARIOUS BOARDS/COMMITTEES

Board/Committee	Council Member
Planning Commission	Sam Artino
Huron Joint Port Authority	Mark Claus
Huron Joint Recreation District	Matt Grieves
Finance Committee	Monty Tapp, Mark Claus and Joel Hagy
Safety Committee	Monty Tapp, Sam Artino and William Biddlecombe
Rescue Squad Trust Fund	Matt Lasko and Monty Tapp (per ordinance)
Erie County Council of Government	Joe Dike and Sam Artino
Volunteer Firefighter Dependent Fund	Monty Tapp and Sam Artino
Enterprise Zone Committee	Monty Tapp and Mark Claus
School Board Liaison	William Biddlecombe
Regional Water Advisory	Monty Tapp and Mark Claus
Utilities Committee	Joel Hagy and Matt Grieves
AMP-Ohio	Sam Artino
Tax Incentive Review Board	Joe Dike
Huron Chamber of Commerce	Sam Artino