

AN ORDINANCE AMENDING BEACHWOOD CODIFIED ORDINANCE SECTION 121.01, ADOPTING “RULES OF PROCEDURE” FOR BEACHWOOD CITY COUNCIL; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, City Council desires to amend Beachwood Codified Ordinance Chapter 121 titled “Council” and adopt Rules of Procedure for Beachwood City Council.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, Cuyahoga County, State of Ohio, that:

Section 1: Council hereby amends BCO Chapter 121 titled “Council” by amending Section 121.01 to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein by reference. In addition, existing BCO Sections 121.01; 121.02; 121.025; 121.03; 121.12; and 121.14 shall be repealed in their entirety.

Section 2: This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its communities that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 3: This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety or the efficient operation of the City; and for the further reason that this Ordinance is required to be immediately effective to provide for the formal rules of Council and Committee meetings; wherefore this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 4th day of January, 2021 presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 5th day of January, 2021.


Clerk

Approval: I have approved this legislation this 5th day of January, 2021, and filed it with the Clerk.


Mayor

121.01 Rules of Procedure.

Section 1- Meetings.

Rule 1.1 Organizational Meetings.

At the first Council meeting in January following the election of Council members, or earlier in time of a real and present emergency, or as soon thereafter as practicable, Council shall meet in Council Chambers and organize. In an emergency, the Organizational meeting may be held at an alternate location as determined by the Safety Director or Chief of Police. The Mayor, or a person appointed by the Mayor, shall call the meeting to order and shall preside as the temporary Chair only until the President of Council is elected. At such Organizational meeting, Council shall elect one (1) of its members to be the Council President for a term not beyond the next Organizational meeting, and Council members of all Board and Commissions required by the City Charter and Ordinances, shall be elected to serve not beyond the next Organizational meeting. At the Organizational meeting. Council shall also elect one (1) of its members to be the Council Vice President. Charter Article III, Section 2. In addition, Council’s representative to the Planning and Zoning Commission shall be elected at each Organizational meeting of Council.

Rule 1.2 Regular Meetings.

Council shall ordinarily hold its Regular meetings in Council Chambers located at City Hall, at 7:00 p.m., the first and third Mondays of each month. In recognition of various holidays observed by residents of the City and holidays established by Federal and/or State law, Council may change the Regular meeting date or adjourn to an alternative date where the Regular meeting date conflicts with such holidays. In an emergency, a Regular meeting may be held at an alternate location as determined by the President of Council. Where it is doubtful that a quorum will be present, Council may adjourn to an alternative meeting date. Council may also convene a Regular meeting directly following the Organizational meeting as provided for in Rule 1.1.

The Council President or acting president shall have the sole authority to cancel any regularly scheduled Council meeting in the event that a quorum will not be present or for other good cause.

The Council President shall notify the Clerk of Council who will then notify interested parties of the cancellation, including, but not limited to:

Council members

Mayor

City employees

Media/press

School personnel/students

Scheduled speakers

Rule 1.3 Special Meetings.

After its Organizational meeting, Council shall meet at such times prescribed in these rules. Such Council meetings shall be known as Regular meetings. All other Council meetings shall be known as Special meetings.

Special meetings may be called by a vote of Council taken at any Regular or Special meeting thereof, or shall be called by the Clerk of Council upon the written request of the President of Council, the Mayor, or by any four (4) members of Council. Notice in writing of each Special meeting called at the request of the President of Council, or by any four (4) members of Council shall state the date and time, and the subject or subjects to be considered at such meeting. No subject or subjects, other than those listed in this written notice shall be considered at such Special meetings. The written notice required by this section shall be served by the Clerk of Council upon the Mayor and each member of Council, either personally, by email, or by leaving a copy thereof at his or her usual place of residence, not less than twenty-four (24) hours proceeding the time for the meeting. In the event that a Special meeting is called by a vote of Council taken at any Regular or Special meeting from which any member of Council was absent, written notice of such Special meeting shall be given to such absentee in the manner provided herein.

The Mayor and any Council member shall be deemed conclusively to have waived such notice by their attendance at the Special meeting that was the subject of the notice.

All Special meetings of Council shall be held in Council Chambers at City Hall or such other place(s) in the City as Council may direct, providing that notice of the change in location shall be posted at City Hall and on the City's website no later than one (1) hour prior to the meeting.

Rule 1.4 Holiday Scheduling.

Council shall hold at least two (2) Regular Council meetings during each calendar month, except that Council may provide for only one (1) Regular Council meeting per month during the months of June, July and August, when a quorum will not be present or when Council has no agenda. Charter Article III, Section 5(3)(A). The anticipated Regular Council meeting calendar for each year shall be set by the President of Council no later than in January of each year.

Rule 1.5 Executive Sessions.

An Executive Session may be called during any Regular, Special or Committee meeting in compliance with BCO 105.03 and the Ohio Open Meetings Act. Ohio R.C. 121.22. **“Confidential information” means any communication made in an Executive Session that is specifically related to the reason for the Executive Session.**

- A. Subject to Rule 1.5(C), Council members shall each regard ~~all~~ information disclosed or discussed at or during any Executive Session to be ~~absolutely~~ privileged and **Confidential Information**. It shall be the personal duty of each Council member to refrain from disclosing directly or indirectly to any third parties (“Third Parties”) ~~any and all~~ **Confidential Information** disclosed or discussed ~~at or~~ during any Executive Session.
- B. For purposes of this Rule, “Third Parties” does not include the following, ~~so long as if~~ the Third Party participated in the Executive Session:
1. The Mayor;
 2. The Law Director;
 3. The Clerk of Council;
 4. The Mayor’s Assistant Administrative Officer; and
 5. Other members of Council.
- C. Specific information disclosed or discussed at or during any Executive Session may be disclosed by any Council member(s) only under one or more of the following circumstances:
1. When such disclosure is expressly authorized by a vote at a public meeting by a majority of the members of Council, but only to the extent so authorized;
 2. When such disclosure is expressly requested to be made by the Mayor, and authorized by a vote at any public meeting of Council, at which a quorum of Council Members is present, but only to the extent of such request; or
 3. When such disclosure is otherwise **allowed or** required by law.
- D. When in the determination of any three Council members one or more other Council members are reasonably suspected to have violated this Rule, the Remaining Members of Council (i.e., the “Remaining Members,” meaning all Council members excluding the Council member(s) believed to have violated this Rule), shall **have the option to either:** **1)** appoint one of the Remaining Members to preside over an investigation into such charges, **or 2) refer** the matter ~~may be referred by the Remaining Members~~ to the Ohio Ethics Commission. The Council member(s) charged with violating this Rule shall be afforded reasonable notice and an opportunity to be heard on the charges, and are entitled to be represented by legal counsel. If a majority of the Remaining Members subsequently determine that the member(s) charged with violating this Rule has/have in fact violated this Rule, the Remaining Members shall have full power to determine such penalty for the violation(s) as a majority of them deem fit, including without limitation penalties ranging from none whatsoever to forfeiture of that member’s seat on Council per the process

detailed in the City Charter. **No penalty shall be more severe than a penalty that can be imposed by the Ethics Commission or by a court of law for such violation.**

- E. These provisions are in addition to and cumulative of all other statutes, rules, ordinances and regulations pertaining to Council member's obligations respecting Executive Sessions, including without limitation the Ohio Public Meetings laws under Ohio R.C. 121.22. **To the extent a provision is in conflict with any other statute, rule, ordinance or regulation or is not permitted by another statute, rule, ordinance or regulation, such other statute, rule, ordinance or regulation should control and the provision deemed null and void.**

Rule 1.6 Ohio Open Meetings Act.

The Organizational meeting, all Regular meetings, Special meetings, Executive Sessions, and Committee meetings shall be conducted in accordance with the Ohio Open Meetings Act. Ohio R.C. 121.22. All meetings of Council and its committees shall be public, and any and all citizens shall have access to the minutes and records of these meetings at all reasonable times.

Rule 1.7 Quorum.

A majority of Council shall constitute a quorum to conduct business, but a lesser number may adjourn from time to time to compel the attendance of absent members. Charter Article III, Section 5(2).

Rule 1.8 Order of Business.

1. Pledge of Allegiance
2. Call to Order
3. Roll Call
4. Reports
 - a. Mayor
 - b. Council Members (non-agenda items)
 - c. Department Directors
5. Citizen's Remarks
6. Approval of Minutes
7. Legislation
8. Correspondence

9. Adjournment

1.8 Council Meeting Agenda

Except for emergency matters or other special matters requiring the immediate attention of Council, a listing of business to be considered by Council shall be prepared and delivered to each member at least four (4) days prior to each regular Council meeting and posted on the City's website. It is the responsibility of the Clerk to prepare and deliver the agenda and all supporting documentation under the general supervision and direction of the President of Council. All members of Council and the Administration are encouraged to cooperate with the Clerk in making the agenda complete and accurate. While nothing herein will prevent the introduction of new business not listed on the agenda, Council, by a simple majority vote, may require additional time to study any item not included on the agenda.

Council may, upon a majority vote of its members, modify the order or contents of the agenda at a Council meeting.

Section 2- Council Organization.

Rule 2.1 Officers.

At the Organizational meeting of Council, Council shall by a simple majority vote, through the use of a roll call vote, elect from among its members a President of Council and a Vice-President of Council to serve as officers of Council for a term not beyond the next Organizational meeting. Charter Article III, Section 2.

Rule 2.2 Removal of Officers.

The officers of Council shall serve at the pleasure of Council. A vote of a majority of members of Council shall be required to remove an officer.

Rule 2.3 Presiding Officer.

The President is the presiding officer of Council. In the event the Council President is for any reason unable to perform the duties of Council President, the Council Vice-President shall act in place of the Council President and shall be the presiding officer of Council. Charter Article III, Section 2. If neither the President nor Vice-President is present, the most senior member of Council shall call the meeting to order, and Council should immediately elect a President pro tem to be the presiding officer of Council during such meeting.

Rule 2.4 Vacancy of Officer.

Any vacancy in the office of President of Council, whether occurring by death, resignation, removal or disqualification, or by succession to the office of Mayor, shall be filled by the Vice-President of Council for the remainder of the unexpired term of President of Council. The vacancy

so created in the Office of Vice-President of Council shall be filled by a Council member elected by the majority of the remaining members of Council, without first appointing a replacement council member. The successor shall hold office for the balance of the unexpired term of Vice-President of Council. If both the Office of President and the Office of Vice-President are vacant, the remaining members of Council shall through the use of a roll call vote, elect from among its remaining members a President of Council and a Vice-President of Council to serve as officers of Council for the balance of the unexpired term of the President and Vice-President. Vacancies in Council shall be filled in accordance with Article III, Section 3 of the Charter.

Rule 2.4 Duties of the President.

The President of Council shall preside over all Regular and Special meetings of Council, meetings of the Council Committee of the Whole and public hearings. Charter Article III, Section 5. The President of Council shall coordinate the work of the committees and prepare Council meeting agendas. The President shall preserve order and decorum at all times, confine debate to the question under discussion and decide all Points of Order.

Rule 2.5 Duties of the Vice-President.

The Council Vice-President shall act in the place of the President in the event the Council President is for any reason unable to perform the duties of Council President. Article III Section 2.

Rule 2.6 Clerk of Council.

At the Organizational meeting required by Article III, Section 2 of the Charter, or as soon thereafter as may be convenient, Council shall appoint a Clerk of Council and Assistant Clerks of Council to serve until the next Organizational meeting, unless such appointment is terminated by Council at an earlier date. The responsibilities of the Clerk shall be those set forth in the Charter or in the laws of the City or of the State. In the absence or unavailability of the Clerk, the Assistant Clerks shall have the same authority and responsibility as the Clerk and shall act under the direction and control of the Clerk. Article III, Section 4. In the absence of the Clerk, the Assistant Clerk shall act under the direction and control of the Law Director.

Rule 2.7 Vacancy in Clerk Position.

During the temporary absence or unavailability of the Clerk of Council, one of the Assistant Clerks shall perform the duties of the Clerk of Council. If no individual holds the position of Assistant Clerk, Council shall by an affirmative vote of a simple majority of its members, appoint a like-qualified individual to perform the duties of the Clerk's office.

Section 3- Committees.

Rule 3.1 Standing Committees.

The standings committees of Council shall be as follows:

Audit Committee: Council shall appoint one member of the residential or business community.

Building and Grounds

Communications

Economic Development

Finance and Insurance

Intergovernmental Relations

Legal and Personnel

Planning and Zoning

Public Works

Recreations and Community Services

Residential Housing: Council shall appoint one member who is a resident homeowner.

Safety and Public Health

Storm Water Commission

Rule 3.2 Temporary Committees.

The President of Council may appoint temporary committees as are necessary to carry out the duties of Council.

Rule 3.3 Committee Appointments.

The President of Council shall appoint all Chairs, and members of said standing and temporary committees in accordance with Article III, Section 2 of the Charter, at each Organizational meeting of Council to serve terms not beyond the next Organizational meeting. Nothing shall preclude the President of Council from appointing additional members to a standing or temporary committee or to remove a member during a term. However, the President shall justify this action in an open meeting of Council.

Rule 3.4 Number of Members on Standing and Temporary Committees.

There shall be three (3) or four (4) members on each standing or temporary committee. The number of members on temporary committees shall be established by the President of Council.

Rule 3.5 Attendance by Non-Committee Members.

Council members may attend Committee meetings of standing or temporary committees of which they are not a member.

Rule 3.6 Committee Chair.

The Chair shall be the first name appearing on the list of committee members.

Rule 3.7 Committee Meetings.

The Committees shall meet in Conference Room A or in Council Chambers beginning at 5:30 p.m. on the days of any regularly scheduled Council meeting and at such other times deemed necessary. Notice of Council committee meetings when scheduled shall be posted on the City's website at least three (3) calendar days prior to the meeting.

Rule 3.8 Duties of Committees.

- (A) Committees sit as a deliberative body rather than in a legislative capacity, for informal debate or preliminary consideration of matters awaiting legislative action. All proposed Ordinances and Resolutions, except those of a purely ceremonial nature, may be referred by the President of Council to one (1) of the standing committees of Council or Council's Committee of the Whole, as deemed appropriate to the subject matter.
- (B) Nothing in these rules shall preclude any standing or temporary committee from proposing an Ordinance or Resolution on its own initiative.

Rule 3.9 Quorum for Committees.

Committees containing three (3) members must have two (2) members present for a quorum. Committees containing four (4) members must have three (3) members present for a quorum. A majority vote of the members of the committee is necessary to take action.

Rule 3.10 The President and Committees.

The President of Council shall be an ex officio member of all committees of which he or she is not a member, or does not Chair, but shall not vote upon any question coming before those committees. The President of Council may, however, be counted as a member of a committee for the purpose of making a quorum. The President may also serve as a regular member with full voting power for a maximum of forty-five (45) days in the event of the death, or resignation of a Council member from a committee. If a member is removed from a committee, the President of Council shall fill any vacancy within five (5) days by appointing another member of Council to fill the unexpired term. In the event of a death or resignation, the President of Council shall fill any vacancy occurring on a committee within forty-five (45) days after the vacancy occurs by appointing another member of Council to fill the unexpired term.

Rule 3.11 Committee of the Whole.

The entire membership of Council may meet as a Committee of the whole when it wishes, so that the entire Council may consider an issue. The President of Council shall act as its Chair.

Section 4- Parliamentary Procedures.

These procedures shall apply to all meetings of Council and its committees.

Rule 4.1 Call to Order.

At the time appointed for Council to meet, the President shall take the Chair and immediately call the members to order.

Rule 4.2 Roll Call.

Before proceeding, the Clerk shall call the roll and enter into the minutes the members present or absent.

Rule 4.3 Suspension of the Rules.

Council's Rules of Procedure may be temporarily suspended at any meeting of Council by an affirmative vote of five (5) members of Council. The vote on any suspension shall be taken by a roll call vote.

Rule 4.4 Amendment to the Rules.

Council's Rules of Procedure are to remain in full force and effect until amended or repealed by Council. The Rules of Procedure may be amended or altered, or new rules may be adopted, by a simple majority vote of Council members present at any meeting of Council, so long as the proposed amendment, alteration, or new rule is in writing and provided to Council in advance of the meeting at which it may be considered.

Rule 4.5 Questions and Motions.

When a motion is made and seconded, the President of Council or the Clerk of Council shall restate the motion, which then places it before Council. Any such motion and any amendment thereto may be withdrawn by the mover and or seconder thereof at any time before a decision if a majority of Council members present shall agree. Following debate, the President of Council or the Clerk of Council shall put the question to a vote and announce the results of the vote. A Council member may call for a vote to end debate. Calling for the vote or known as "Calling for the Question" shall require a first and a second and then approval of five (5) members of Council. This vote shall be separate from and before the vote on the pending matter. There shall be no debate on the vote Calling for the Question.

Rule 4.6 Reconsideration.

Any Council member who previously voted with the prevailing side may move to reconsider any vote or proceeding of Council. A motion for reconsideration shall be made no later than the next Regular meeting. An action taken by Council shall only be reconsidered once.

Rule 4.7 Point of Order.

A Point of Order is a motion made by a Council member when it is believed that Council's Rules of Procedure are being violated. A Point of Order motion may be made when another member has the floor and does not require a second. The President of Council must determine the validity of the motion. If the decision is that the Rules of Procedure are being violated, the President of Council shall enforce the rule.

Rule 4.8 Point of Information.

A Point of Information is requested by a Council member to the Council President seeking information relevant to the business at hand. The President of Council shall direct the request to the appropriate person and all information shall be exchanged through the President of Council in order to maintain decorum.

Rule 4.9 Procedures Not Included in Council Rules.

In the absence of any rule governing matters of business in either Council's Rules of Procedure, the City Charter, or the Statutes of the State of Ohio, the most recent version of Robert's Rules of Order, Newly Revised shall govern the parliamentary procedures for City Council.

Section 5- Debate and Decorum.

Rule 5.1 Preservation of Decorum.

The President of Council shall preserve decorum and maintain order at all times, decide all Points of Order, and confine Council members to the question before Council. The use of profane or vulgar language is absolutely forbidden, whether by Council members or by others attending the Council meeting.

Rule 5.2 Power to Preserve Decorum.

The Council may, with a majority vote, vote to suspend the meeting to preserve order and/or decorum.

Rule 5.3 Speaking by Council Members.

Any Council member desiring to speak shall raise his or her hand for recognition by the President of Council. Upon recognition, the Council member shall be allowed to speak.

Rule 5.4 Speaking by Members of the Administration.

The Mayor and any member of the Administration desiring to speak shall raise his or her hand for recognition by the President of Council. Upon recognition, the Mayor or member of the Administration shall be allowed to speak.

Rule 5.5 Speaking by Non-Members of Council. See Section 7.

Rule 5.6 Videotaping of Council Meetings.

The video shall serve as the official minutes for all Council meetings, including Committee meetings of Council. A written summary of the meeting which details the general discussion on each agenda item, as well as the vote(s) on all Ordinances, Resolutions and Motions shall also be kept. In the event that the video is not functioning during any meeting, the audio shall serve as the official minutes for all Council meetings, including Committee meetings of Council. In the event that the audio is not functioning during any meeting, Clerk shall prepare detailed written minutes of the meeting and any future meetings until the audio is restored.

Section 6- Enacting Legislation.

Rule 6.1 Council Actions.

Council shall act officially only by Ordinance, Resolution or Motion. The form of all Ordinances and Resolutions shall be as follows: “Be it Ordained by the Council of the City of Beachwood, State of Ohio.” No Ordinance or Resolution, except a general appropriation ordinance, shall contain more than one subject which shall be clearly stated in the title.

Rule 6.2 Requests for the Introduction of New Legislation.

All new legislation requests must be received by the Clerk of Council by 12:00 noon on the second Tuesday preceding the meeting at which it is to be introduced. Legislation received after the time stated above will be deferred until the next Regular Council meeting unless otherwise authorized by the Council President. Requests for legislation may be made by the Mayor, the Council President or any four (4) members of Council.

Rule 6.3 Motions.

When a motion is made and seconded, it shall be stated by the President or Clerk of Council before any debate shall be in order. Any such motion and any amendment thereto may be withdrawn by the movers thereof at any time before decision, if a majority of the members of Council agree.

Rule 6.4 Number of Readings.

Resolutions and Ordinance shall, before passage, be read by title only at three (3) separate meetings of Council, provided that this requirement may be dispensed with by the affirmative vote of five

(5) members of Council and provided, further, that such Resolution or Ordinance shall be read in full when so requested by any member of Council.

Rule 6.5 Voting.

(A) All voting of Council, whether after a reading or a final vote, shall be taken by roll call, the Clerk calling the names of each of the members in alphabetical order and recording the vote in the minutes of the meeting. A majority of the members of Council shall vote “yes” to pass any Ordinance, Resolution or Motion, at a first or second reading or to adopt the issue on the third and final reading unless a greater number is required or a lesser number is permitted by this Charter. Charter Article III, Section 7(1)(A).

(B) All votes shall be recorded as “yes” or “no”. A vote to “abstain” shall be counted as voting with the majority of those who do vote. A member who does not vote due to a conflict of interest shall not participate in discussion or vote on the issue and shall not sit with Council during the proceedings relating to that issue. Charter Article III, Section 7(1)(B).

(C) In the event a member of Council declares an inability to vote due to a conflict of interest, the member shall make a full explanation of such conflict, which shall be recorded in the minutes of the meeting. The requirements of a quorum and other voting on that issue shall be the same as if the office were vacant. Charter Article III, Section 7(3).

Rule 6.6 Passage or Adoption.

The affirmative vote of at least four (4) members of Council shall be required for the passage of every Ordinance, Resolution or Motion unless a greater number is required by Charter or by Ohio R.C. 727.12 relating to the passage of a resolution declaring the necessity of an improvement to be paid for in whole or in part by special assessment.

Rule 6.7 When Legislation Becomes Effective.

Each Ordinance or Resolution providing for 1) the appropriation of money, 2) tax levies, or 3) improvements petitioned for by a majority of the owners of property to be assessed, and 4) emergency or urgent measures declared by Council to be necessary for the immediate preservation of the public peace, health or safety or the efficient operation of the City, shall go into immediate effect, provided, however that in the case of emergency or urgent measures, the reasons for the emergency or urgency shall be set forth in one section of the Ordinance or Resolution, and such emergency or urgent measures shall require a vote of at least two-thirds (2/3rds) of the members of Council for passage. No other Ordinance or Resolution shall go into effect until thirty (30) days after its final passage. Charter Article III, Section 6(4).

Rule 6.8 Resolutions of Congratulations and Commendations.

Resolutions of congratulations, commendations, condolences, and the like, which are not of a general and permanent nature, may be voted and acted upon at once and are not subject to the three (3) reading rule.

Section 7- Citizen's Remarks.

Rule 7.1 Citizens Addressing Council.

Individual citizens/members of the public shall be permitted to address Council at Regular and Special meetings during the Citizen's Remarks portion of the meeting.

Rule 7.2 Time Allotted.

No individual shall be permitted to speak longer than five (5) minutes. In total, the Citizen's Remarks portion of the meeting shall continue for no longer than thirty (30) minutes unless so extended at the discretion of the President or a majority of Council.

Rule 7.3 Speaking Roster.

Any individual wishing to address Council shall sign the speaking roster prepared by the Clerk of Council and include a mailing and email address. The roster shall be on the table at the back of the Council Chambers until such time as the President of Council begins the Citizen's Remarks portion of the meeting.

Rule 7.4 Conduct of Speakers.

Each individual must identify himself or herself and their address and state the subject of his/her comments, which shall be addressed to the President of Council. If necessary, the President of Council shall have the power to equitably divide the time available among the individuals wishing to address Council. All individuals shall observe Council's Rules of decorum. No debate, disrespectful conduct or obscenities shall be permitted. The President of Council may end any comment that is disruptive, embarrassing, harassing or is otherwise objectionable.

Rule 7.5 Response.

Council will not respond to questions posed during the Citizen's Remarks portion of the meeting, but will refer questions to someone from the Administration who should respond within a reasonable period of time.

Section 8- Council Members Code of Conduct.

Rule 8.1 Principles of Conduct.

These principles of conduct describe how Council members should treat each other, members of the community and the public and work together for the common good of the City. Conducting the City's business in an atmosphere of respect and civility is required. Council members are

responsible for holding themselves and each other accountable for displaying actions and behaviors that consistently model the ideals expressed herein.

Each Council member expressly agrees to these principles of conduct:

A. Consistently demonstrate the principles of professionalism, respect, and civility in working for the greater good of the City and its residents.

B. Commit to act and be seen as acting with integrity and impartiality that will bear the closest scrutiny.

C. Refrain from influencing any person in any improper way to try to obtain any advantages or favors.

D. Refrain from commenting on matters of pending or threatened litigation **if such comments disclose confidential or privileged information.**

E. When confronted with a conflict of interest, completely abstain from making any decision about or influencing how the matter is resolved. Such abstention or recusal should include refraining from: voting, discussing, reviewing, recommending, inspecting, investigating, or taking any other action on the matter.

F. Comply promptly and in accordance with the City's Public Records Policy to all public records requests. All replies with documents shall be provided directly to the Law Department and not to the party requesting the documents.

G. Maintain information provided as legal advice as privileged and confidential unless that privilege is waived by the Mayor and all Council members. Consider **such all** communications, whether verbal or in writing from legal counsel whether from the City's Law Director, Assistant Law Director, Prosecutor, or from outside counsel, as privileged and confidential unless stated otherwise.

Section 9- Communications.

Rule 9.1 Council Notifications of Significant Incidents.

The Mayor or the Mayor's designee shall use his or her best efforts to coordinate notifications to Council of major crime, fire, or other disasters or similarly significant incidents in a timely manner but no later than twenty-four (24) hours after the occurrence.

Rule 9.2 Communications to Council from the Public.

Communications from the public directed to City Council shall be included on Council's next regularly scheduled Council meeting agenda for purposes of notification to Council.

Rule 9.3 Communication from Mayor to President of Council regarding absence from the City.

During the Mayor's absence from the City or inability to perform the duties of the office, the Council President, or if necessary, the Council Vice-President, shall become the acting Mayor and have all of the powers and duties of the Mayor for such period, but not the power of veto, and shall continue to have all the powers and duties of the Council President or Council Vice-President, and of a Councilmember. Charter Article IV, Section 3(1).

Section 10- Miscellaneous.

Rule 10.1 Enforcement of Rules.

The President of Council and all Committee Chairs shall conduct all Council and Committee meetings in accordance with these Rules of Procedure. If there is a conflict between these Rules and the City's Charter, the City Charter shall supersede the conflicting provision of these Rules. If any member of Council, in speaking or otherwise, shall violate any Rule, the President of Council or Committee Chair, upon a motion for a Point of Order by any member of Council, shall call the member to order. If the member is speaking when the motion for a Point of Order is made, the member shall immediately cease speaking unless permitted by the President of Council or Committee Chair to explain. The question of the Point of Order shall be decided without debate, at the President of Council's or Committee Chair's discretion. The President of Council or Committee Chair will either rule that the Point of Order was well taken (correct) and require the member to abide by the rule or not well taken (incorrect). Thereafter, the business that was interrupted shall then continue.

Rule 10.2 Review of Rules.

Subject to the direction of the President of Council, there shall be a comprehensive review of these Rules by Council no later than every five (5) years.

Rule 10.3 Violations of Rules.

Subject to any other more specific enforcement provisions set forth in these Rules and in addition to any other local, state or federal enforcement provisions, violators of these rules may be penalized by either a public or private reprimand.

AN ORDINANCE AMENDING SECTION 121.09, "ADVERTISING FOR BIDS; AWARDING CONTRACTS", OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, Section 121.09 governs advertising for bids and awarding contracts; and

WHEREAS, the Law Director is recommending certain amendments to Section 121.09(a)(1) to allow for the second required advertisement to be an abbreviated notice as permitted under the requirements of Ohio Revised Code 7.16; and

WHEREAS, this Council desires to adopt the recommended amendments to 121.09(a)(1).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Existing Section 121.09(a)(1), "Advertising for Bids; Awarding Contracts", of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, as follows:

121.09 ADVERTISING FOR BIDS; AWARDING CONTRACTS.

(a) (1) Unless specifically waived by Council, contracts for the expenditure of more than fifty thousand dollars (\$50,000) shall be awarded pursuant to competitive bidding. The advertising for bids shall be made by a motion of Council directing the Clerk to advertise for not less than two weeks in a newspaper of general circulation in the City. [The second notice may be an abbreviated notice as is permitted pursuant to the requirements of Ohio Revised Code 7.16.](#) The Clerk shall be solely responsible for receipt and opening of all City bids. The award of a contract accepting a bid shall be made by ordinance of Council directing the Mayor and Finance Director to enter into an appropriate contract.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

ORDINANCE NO. 2021-12

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 1st day of February, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 2nd day of February, 2021.


Clerk

Approval: I have approved this legislation this 2nd day of February, 2021, and filed it with the Clerk.


Mayor

121.09 ADVERTISING FOR BIDS; AWARDING CONTRACTS.

(a) (1) Unless specifically waived by Council, contracts for the expenditure of more than fifty thousand dollars (\$50,000) shall be awarded pursuant to competitive bidding. The advertising for bids shall be made by a motion of Council directing the Clerk to advertise for not less than two weeks in a newspaper of general circulation in the City. [The second notice may be an abbreviated notice as is permitted pursuant to the requirements of Ohio Revised Code 7.16.](#) The Clerk shall be solely responsible for receipt and opening of all City bids. The award of a contract accepting a bid shall be made by ordinance of Council directing the Mayor and Finance Director to enter into an appropriate contract.

AN ORDINANCE REPLACING CURRENT BCO CHAPTER 1322 AS AMENDED REGARDING THE FLOOD DAMAGE REDUCTION PLAN; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, BCO Chapter 1322 provides requirements for Flood Damage Prevention in the City of Beachwood; and

WHEREAS, the Federal Emergency Management Agency (“FEMA”) has recently updated the City’s Flood Insurance Rate Maps; and

WHEREAS, the City is required to adopt compliant legislation to implement these regulations in accordance with State and Federal Regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Council hereby amends existing Chapter 1322 of the Codified Ordinances of the City of Beachwood, Ohio, to include the same and to authorize the changes as outlined in the attached Exhibit “A”.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 3: This Ordinance is declared to be an urgent measure which is immediately necessary for the public peace, health, safety or the efficient operation of the City, and for the further reason of implementing these updated regulations at the earliest time possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 16th day of February, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 17th day of February, 2021.

Whitney M. Crook

Clerk

Approval: I have approved this legislation this 17th day of February, 2021 and filed it with the Clerk.

Monte S. Howard

Mayor

CHAPTER 1322

Flood Damage Reduction

- 1322.01 General provisions.
- 1322.02 Definitions.
- 1322.03 Administration.
- 1322.04 Use and development standards for flood hazard reduction.
- 1322.05 Appeals and variances.
- 1322.06 Enforcement.
- ~~1322.07 Adoption~~

CROSS REFERENCES

- Flood control by soil conservation district supervisors - See Ohio R.C. 1515.08
- Flood insurance - see Ohio R.C. 3925.34(C)
- Water supply, sanitation, ditches - see Ohio R.C. 6101.01 et seq.
- Altering, polluting and diverting watercourses - see GEN. OFF. 660.04
- Development plans submitted to City Engineer - see BLDG. 1329.12

1322.01 GENERAL PROVISIONS.

- (a) Statutory Authorization. ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of Beachwood, State of Ohio, does ordain as follows:
 - (b) Findings of Fact. The City of Beachwood has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.
 - (c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
 - (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
 - (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
 - (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
 - (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
 - (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
 - (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
 - (12) Meet community participation requirements of the National Flood Insurance Program.
 - (d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:
 - (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
 - (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
 - (e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Beachwood as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by City of Beachwood.
 - (f) Basis for Establishing the Areas of Special Flood Hazard.
 - (1) For the purposes of these regulations, the following studies and/or maps are adopted:
 - A. Flood Insurance Study Cuyahoga County, Ohio and Incorporated Areas and Flood Insurance Rate Map Cuyahoga County, Ohio and Incorporated Areas both effective December 3, 2010.
 - B. Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
 - C. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Beachwood as required by Section 1322.04(c) Subdivisions and ~~Large Scale~~Large-Scale Developments.
 - (2) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the City Hall at 25325 Fairmont Boulevard, Beachwood, Ohio.
 - (g) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. ~~These regulations are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these is regulations ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. These regulations shall not impair any deed restriction covenant or easement but th~~

land subject to such interests shall also be governed by the regulations.

- (h) **Interpretation.** In the interpretation and application of these regulations, all provisions shall be:
- (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and,
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

(i) **Warning and Disclaimer of Liability.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Beachwood, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(j) **Severability.** Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2010-113. Passed 11-16-10.)

1322.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

- (a) **Accessory Structure:** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) **Appeal:** A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.
- (c) **Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (d) **Base (100-Year) Flood Elevation (BFE):** The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) **Basement:** Any area of the building having its floor sub grade (below ground level) on all sides.
- (f) **Development:** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) **Enclosure Below the Lowest Floor:** See "Lowest Floor."
- (h) **Executive Order 11988 (Floodplain Management):** Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (i) **Federal Emergency Management Agency (FEMA):** The agency with the overall responsibility for administering the National Flood Insurance Program.
- (j) **Fill:** A deposit of earth material placed by artificial means.
- (k) **Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters, and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (l) **Flood Hazard Boundary Map (FHBM):** Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- (m) **Flood Insurance Rate Map (FIRM):** An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (n) **Flood Insurance Risk Zones:** Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
- (1) **Zone A:** Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.
 - (2) **Zones AI-30 and Zone AE:** Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.
 - (3) **Zone AO:** Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - (4) **Zone AH:** Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - (5) **Zone A99:** Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
 - (6) **Zone B and Zone X (shaded):** Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
 - (7) **Zone C and Zone X (unshaded):** Areas determined to be outside the 100-year floodplain.
- (o) **Flood Insurance Study (FIS):** The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (p) **Floodproofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (q) **Flood Protection Elevation:** The Flood Protection Elevation, or FPE, is the base flood elevation plus one (1) foot ~~plus one (1) foot~~ feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.
- (r) **Floodway:**

- (1) A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.
- (2) The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

~~(s)~~ **Freeboard:** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

~~(t)~~ **Historic Structure:** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

~~(3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office. Individually listed on the inventory of historic places maintained by any the City of Beachwood's historic preservation program, which program is certified by the Ohio Historic Preservation Office or the Ohio Historic Preservation Office DC2[RJ4];~~

~~(3)~~

~~(u)~~ **Hydrologic and Hydraulic Engineering Analysis:** An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

~~(v)~~ **Letter of Map Change (LOMC):** A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

- (1) **Letter of Map Amendment (LOMA).** A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
- (2) **Letter of Map Revision (LOMR).** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
- (3) **Conditional Letter of Map Revision (CLOMR).** ~~A formal review and comment by FEMA as to whether regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area, complies with the minimum National Flood Insurance Program floodplain management criteria;~~ A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

~~(w)~~ **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

~~(x)~~ **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

~~(y)~~ **Mean sea level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

~~(z)~~ **Manufactured Home Park:** As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes.

~~(aa)~~ **National Flood Insurance Program (NFIP):** The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

~~(bb)~~ **New Construction:** Structures for which the "start of construction" commenced on or after the ~~initial~~ effective date of ~~the City of Beachwood Flood Insurance Rate Map, April 20, 1979~~ a floodplain regulation adopted by the City of Beachwood, and includes any subsequent improvements to such structures.

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM, December 3, 2010, or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

- (aa) **Person:** Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the [Ohio Rev. Code §111.15\(A\)\(2\) Ohio Revised Code Section 111.15](#) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (bb) **Recreational Vehicle:** A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (cc) **Registered Professional Architect:** A person registered to engage in the practice of architecture [pursuant to Ohio Rev. Code §4703.01 and 4703.19, under the provisions of sections 4703.01 to 4703.19 of the Revised Code.](#)
- ~~(dd)~~ **Registered Professional Engineer:** A person registered as a professional engineer [pursuant to Ohio Rev. Code §4703.01 and 4703.19, under Chapter 4733 of the Revised Code.](#)
- ~~(ee)~~ **Registered Professional Surveyor:** A person registered as a professional surveyor [pursuant to Ohio Rev. Code Chapter 4733 under Chapter 4733 of the Revised Code.](#)
- ~~(ff)~~ **Special Flood Hazard Area:** Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, AI-30, ~~or~~ A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (gg) **Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred and eighty (-180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (hh) **Structure:** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (ii) **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to ~~the~~ its "before damaged" condition would equal or exceed ~~fifty~~ fifty percent (50%) of the market value of the structure before the damage occurred.
- (jj) **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds ~~fifty~~ fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:
- ~~(1) Any improvement to a structure that is considered "new construction,"~~
- ~~(2)~~ (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified ~~prior to the application for a development permit~~ by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- ~~(3)~~ (2) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".
- (kk) **Variance:** A grant of relief from the standards of these regulations ~~consistent with the variance conditions herein.~~
- (ll) **Violation:** The failure of a structure or other development to be fully compliant with these regulations.
(Ord. 2010-113. Passed 11-16-10.)

1322.03 ADMINISTRATION.

- (a) **Designation of the Floodplain Administrator.** The City Engineer is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (b) **Duties and Responsibilities of the Floodplain Administrator.** The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
- (1) Evaluate applications for permits to develop in special flood hazard areas.
 - (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
 - (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
 - (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, [floodproofing certificates](#), variances, and records of enforcement actions taken for violations of these regulations.
 - (6) Enforce the provisions of these regulations.
 - (7) Provide information, testimony, or other evidence as needed during variance hearings.
 - (8) Coordinate map maintenance activities and FEMA follow-up.

- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1322.01 (f) until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1322.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1322.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1322.04(i)(3).
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1322.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1322.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and ~~large-scale~~other new developments as required by Section 1322.04(c).
- (6) A floodplain development permit application fee set by the schedule of fees adopted by the City of Beachwood.

(e) Review and Approval of a Floodplain Development Permit Application.

- (1) Review.
 - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1322.03(d) has been received by the Floodplain Administrator.
 - B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
- (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If ~~an application is approved, a floodplain~~the Floodplain Administrator is satisfied that the development permit proposed in the floodplain development application conforms to the requirements of these regulations is ordinance, the Floodplain Administrator shall be issued~~issue the permit~~. All floodplain development permits shall be conditional upon the commencement of work within one hundred and eighty (one-~~1~~-year)180 days. A floodplain development permit shall expire one (1)-year180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2) ~~(3)~~ For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

(h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1322.05 of these regulations.

(i) Exemption from Filing a Development Permit.

~~(+)~~An application for a floodplain development permit shall not be required for:

A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than two thousand five thousand-hundred dollars (~~\$25,050~~).

A-(j) State and Federal Development.

A. Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.

B. Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:

B-1. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of ~~Health-Commerce~~ and subject to the flood damage reduction provisions of the Ohio Administrative Code Section ~~4781-123701~~.

C-2. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.

D-3. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.

E-C. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

1. ~~-~~ Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

~~(+)~~(k) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Beachwood flood maps, studies and other data identified in Section 1322.01 (f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data.

A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
4. Subdivision or ~~large-scale~~other new development proposals requiring the establishment of base flood elevations in accordance with Section 1322.04(c).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1322.03(j)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and
2. Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.

D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1322.03(j)(1)A.

(2) Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of City of Beachwood, and may be submitted at any time.

(3) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Beachwood have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Beachwood Flood Insurance Rate Map accurately represent the City of Beachwood boundaries, include within such notification a copy of a map of the City of Beachwood suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Beachwood has assumed or relinquished floodplain management regulatory authority.

~~(+)~~(l) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base

flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

~~(3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:~~

~~A. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.~~

~~B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.~~

- ~~(4)(3)~~ The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1322.05 Appeals and Variances.

- ~~(4) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of these regulations or ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high watermarks, etc.) shall development prevail.~~

~~(m) Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data~~

~~(1) Zone A:~~

~~A. Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall reasonably utilized as best available data.~~

~~B. When all appeals have been resolved and a notice of final food elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.~~

~~(2) Zones AE, A1-30, AH, and AO:~~

~~A. BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM. However,~~

~~1. Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.~~

~~2. Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.~~

~~(5)B. If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 1322.04 (i)(2) since the data in the draft or preliminary FIS represents the best data available.~~

~~(n) Substantial Damage Determinations.~~

- ~~(1) Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:~~

- ~~A. Determine whether damaged structures are located in special flood hazard areas;~~
~~B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and~~
~~C. Make reasonable attempt to notify Require owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.~~

- ~~(2) Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.~~

~~(Ord. 2010-113. Passed 11-16-10.)~~

1322.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1322.01(f) or 1322.03(k)(1):

(a) Use Regulations.

- (1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Beachwood are allowed provided they meet the provisions of these regulations.

~~(2) Prohibited uses:~~

~~A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio~~

Revised Code:

B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

- (b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated in the absence of any more restrictive standard provided under by the Ohio Revised Code or applicable state rules:

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

- (c) Subdivisions and ~~Large~~ Other New Developments.

- (1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- (2) All subdivision proposals and all other proposed development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals and all other proposed development shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least fifty (50) lots or five (5) acres, whichever is less.
- (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1322.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1322.04(c)(4).

- (d) Residential Structures. The requirements of Section 1322.04 (d) apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1322.03 (m).

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (1322.04 (d)(1)) and construction materials resistant to flood damage (1322.04 (d)(2)) are satisfied.
- (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- (3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent natural grade.
- (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement/automatic equalization of flood waters/hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:

- A. Be used only for the parking of vehicles, building access, or storage; and
- B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
- C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1322.04(d).
- (8) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

- (e) Nonresidential Structures. The requirements of Section 1322.04 (e) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1322.03 (m).

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1322.04(d)(1)-(3) and (5)-(8).
- (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - C. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the design and methods of construction are in accordance with subsection (e)(2)A. and B. hereof.

- (3) In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (f) Accessory Structures. ~~Structures that are six hundred (600) square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:~~
- (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials;
 - (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
 - (4) They shall be firmly anchored to prevent flotation;
 - (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
 - (6) They shall meet the opening requirements of Section 1322.04(d)(5)C.;
- (g) Recreational Vehicles. Recreational vehicles ~~on sites within zones A, A1-A30, AE, AO, or AH~~ must meet at least one of the following standards:
- (1) They shall not be located on sites in special flood hazard areas for more than one hundred and eighty (180) days, or
 - (2) They must be fully licensed and ready for highway use, or
 - (3) They must ~~be placed on the site pursuant to a floodplain development permit issued under sections 1322.03 (c) and (d), and~~ meet all standards of Section 1322.04(d).
- (h) Above Ground Gas or Liquid Storage Tanks. ~~Within zone A, A1-A30, AE, AO, or AH, new or substantially improved~~AH above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- (1) Development in Floodways.
 - A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. Meet the requirements to submit technical data in Section 1322.03(j)(1);
 2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 5. Concurrence of the Mayor of the City of Beachwood and the Chief Executive Officer of any other communities impacted by the proposed actions.
 - (2) Development in Riverine Areas with Base Flood Elevations but No Floodways.
 - A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
 - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than ~~one foot~~one-foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 2. Section 1322.04(i)(1)B., items 1. and 3.-5.
 - (3) Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
 - A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may

require the permit holder to enter into an agreement with City of Beachwood specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

- D. The applicant shall meet the requirements to submit technical data in Section 1322.03(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(Ord. 2010-113. Passed 11-16-10.)

1322.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

- (1) The City of Beachwood Planning and Zoning Commission is hereby appointed to serve as the Appeals Board for these regulations as established by City Code. ~~The members shall serve staggered 3 year terms after which time they shall be reappointed or replaced in accordance with Article VI, Section 2 of the Beachwood Codified Ordinances. Each member shall serve until his/her successor is appointed.~~
- (2) ~~A chairperson shall be elected by the members of the Appeals Board. Meetings of the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in City Hall at 25325 Fairmont Boulevard, Beachwood, Ohio.~~

(b) Powers and Duties.

- (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- (2) Authorize variances in accordance with Section 1322.05(d) of these regulations.

(c) Appeals.

- (1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 30 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.
- (2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a Variance.

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
- C. All applications for variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City of Beachwood.

(2) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (3) Variances shall only be issued upon:
- A. A showing of good and sufficient cause.
 - B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - D. A determination that the structure or other development is protected by methods to minimize flood damages.
 - E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(4) Other Conditions for Variances.

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (d)(2)A. to K. hereof have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(e) Procedure at Hearings.

- (1) All testimony shall be given under oath.
- (2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Cuyahoga County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 2010-113. Passed 11-16-10.)

1322.06 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1322.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (c) hereof.

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will ~~effect~~affect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last

known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a ~~first degree~~first-degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Beachwood. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Beachwood from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Beachwood shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(Ord. 2010-113. Passed 11-16-10.)

1322.07 ADOPTION:

~~This Ordinance shall take effect from and after the earliest period allowed by law and replaces Ordinance Number _____, which is hereby repealed.~~

PASSED:

1st Reading: _____

2nd Reading: _____

3rd Reading: _____

Clerk

President of Council

Certification

CITY OF BEACHWOOD
SUMMARY OF PROPOSED FLOOD DAMAGE REDUCTION
CODE REVISIONS

Diane A. Calta, Director of Law

January 27, 2021

Flood zones are geographic areas that the Federal Emergency Management Agency (FEMA) has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM). Each Zone reflects the severity or type of flooding in the area from an event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood. The City of Beachwood only has a Special Flood Hazard Area (SFHA) known as a Zone A within its jurisdictional limits. This is an area subject to inundation by the 1-percent annual chance flood event and is generally determined using approximate methodologies. Zone A SFHAs do not have base flood elevations defined. The City of Beachwood participates in the National Flood Insurance Program (NFIP) and therefore must administer and enforce the requirement of the NFIP through Chapter 1322 of the Building Code. By participating in the NFIP, citizens and property owners in Beachwood are eligible to purchase flood insurance through the NFIP.

These regulations are being revised to maintain compliance with the minimum criteria of the NFIP. The specific Chapters of the Beachwood Codified Ordinances are:

1) Chapter 1322 Flood Damage Reduction

The City is required to implement these regulations in accordance with State and Federal Regulations.

In order to better understand the proposed revisions to the City's Flood Damage Reduction Code the summary below has been prepared.

Chapter 1322 Flood Damage Reduction

This Chapter was adopted by the City in 2010 per Ordinance No. 2010-113. These revisions repeal the existing Chapter and replaced it in its entirety with updated provisions that comply with changes implemented at the federal and state level. The purpose of this Chapter is to provide regulations for floodplain management which help reduce the risk of flooding damage, resulting in a more resilient community.

1322.01 General Provisions

1322.02 Definitions

- 1322.03 Administration
- 1322.04 Use and development standards for flood hazard reduction
- 1322.05 Appeals and variances
- 1322.06 Enforcement
- 1322.07 Adoption

This new Chapter follows the same format of the prior Chapter, identifying its purpose, including definitions for floodplain management terminology, provisions for what may and may not be permitted in FEMA designated SFHA's, requirements for construction activities in the SFHA, permitting requirements for activities in the SFHA, the related procedure for variances and appeals, and enforcement.

Some examples of the proposed revisions are:

The current version of Chapter 1322 does not include definitions for floodproofing and mean sea level which are added to the updated Chapter. The definition of new construction was also revised in the updated Chapter. The updated Chapter at 1322.03 added specific language for State or Federal projects and provides guidance when using Preliminary Flood Insurance Rate Maps. The updated Chapter at 1322.04 provides additional guidance for residential, non-residential, and accessory structures.

INTRODUCED BY: A. Isaacson

AMENDED ORDINANCE NO. 2021-31

AN ORDINANCE AMENDING BCO CHAPTER 1116, SECTION 1116.08, TITLED “LANDSCAPING AND OPEN SPACE” OF THE CITY OF BEACHWOOD, OHIO PLANNING AND ZONING CODE

WHEREAS, at the recommendation of the City’s Planner and Building and Community Development Director, it is necessary to amend Section 1116.08 of the City’s Zoning Code to include decks as a permitted use in the minimum area, open space for- U-2A Attached Single-Family Residential Districts.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: The Council of the City of Beachwood, having received, on or about March 1, 2021, a request for an amendment to the City’s Planning and Zoning Code, a copy of the amendment being attached hereto and incorporated herein as Exhibit “A”, placed said amendment on First Reading, and referred the proposed amendment to the Planning and Zoning Commission for its report and recommendation on March 1, 2021.

The proposed amendment was recommended for approval by the Planning and Zoning Commission at its March 25, 2021 meeting.

Upon Council’s receipt of the recommendation of the Planning and Zoning Commission the issue of amending the current BCO Section 1116.08 will be placed on Second Reading and set for a Public Hearing.

The Clerk of Council advertised the hearing in a newspaper of general circulation in the City for a period of not less than thirty (3) days prior to the Public Hearing

The Public Hearing was held on the 7th day of June, 2021 at 7:15 P.M. via Zoom teleconference in accordance with Ohio Revised Code Section 121.22 specific to Amendments made in light of the current COVID-19 declared emergency.

This Ordinance shall be read by Council on three separate occasions and its passage shall cause the Proposed Amendment to become effective upon operation of the law.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 21st day of June, 2021 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 22nd day of June, 2021.


Clerk

Approval: I have approved this legislation this 22nd day of June, 2021 and filed it with the Clerk.


Mayor

1116.08 LANDSCAPING AND OPEN SPACE.

In order to ensure the park-like character of the City and to provide environmental amenities to the occupants of the development, land area not covered by buildings, parking areas, drives, sidewalks, plazas, or other hard-surfaced uses shall be developed and maintained in grass or other landscape material, in accordance with the general plan approved by the Commission.

(a) Minimum Area. Open space shall not be less than fifty percent (50%) of the site and may include required setbacks, decks, patios, private gardens, sidewalks, private yards, garage roofs at ground level that are covered with earth and grass, and landscaping or other decorative features.

(b) Required Private Open Space for Residential Uses. Every dwelling unit shall have available to it separate private yards, patios or courts containing at least four-hundred (400) square feet, with screening provided as part of the planned development, so as to ensure adequate privacy, all in accordance with the general plan approved by the Commission. (Ord. 2018-94. Passed 10-21-19.)

INTRODUCED BY: E. Synenberg

ORDINANCE NO. 2021-37

AN ORDINANCE AMENDING SECTION 121.09(b), “ADVERTISING FOR BIDS; AWARDING CONTRACTS”, OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, Section 121.09 governs advertising for bids and awarding contracts, along with the expenditure of funds and awarding of contracts by Council not subject to competitive bidding; and

WHEREAS, the Law Director, with the concurrence of the Finance Director, is recommending a certain amendment to Section 121.09(b) to allow for the awarding of contracts and expenditure of funds between twenty-five thousand dollars (\$25,000.00) but less than fifty thousand dollars (\$50,000.00) upon the recommendation of the Mayor and/or Department Director, by ordinance of Council directing the Mayor and Finance Director to enter into an appropriate contract; and

WHEREAS, this Council desires to adopt the recommended amendment to 121.09(b).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Existing Section 121.09(b), “Advertising for Bids; Awarding Contracts”, of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, as follows:

121.09 ADVERTISING FOR BIDS; AWARDING CONTRACTS.

“(b) Contracts for expenditures of ~~fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) or more, but less than fifty thousand dollars (\$50,000) are not required to be subject to competitive bidding, but may be awarded, upon the recommendation of the Mayor and/or Department Director, by ordinance of Council directing the Mayor and Finance Director to enter into an appropriate contract.”

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 15th day of March, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 16th day of March, 2021.

Whitney M. Crook

Clerk

Approval: I have approved this legislation this 16th day of March, 2021, and filed it with the Clerk.

Mantel S. Howard

Mayor

Mayor Spending Limits

- Cleveland Heights
 - 171.02 COMPETITIVE BIDDING AND ADVERTISEMENT; EXCEPTIONS; CITY COUNCIL APPROVAL
 - (g) The City Manager shall not be required to obtain City Council approval for contracts or agreements involving the expenditure of fifty thousand dollars (\$50,000) or less
- University Heights
 - 212.03 EXECUTION AND APPROVAL
 - All contracts and agreements for public work, services and/or supplies shall be executed in the name of the City by the Mayor, and for an amount exceeding Fifteen thousand dollars (\$15,000) shall be authorized and approved by council.
- Euclid
 - 109.02 CONTRACTS AND BIDS
 - (a) no contracts in excess of \$5,000 shall be entered into without prior approval of the Board of Control. Any contracts in excess of \$50,000 shall first be authorized and directed by ordinance of council.
- Pepper Pike
 - 206.01 CONTRACT PROCEDURES
 - (f) Mayor's Discretionary Spending Authority Mayor may expend up to \$25,000 in accordance with city's current appropriation, but must notify council of such expenditure at the next meeting.
- Mayfield Heights
 - ARTICLE IV THE COUNCIL
 - Section 5 General Ordinances
 - (c) The advertising and awarding of contracts, provided that no expenditure of more than \$25,000...shall be made without the approval of council.
- Lyndhurst
 - 107.06 CONTRACTS EXCEEDING \$10,000 Approval Required; exceptions
 - The ordinance isn't explicit that there is no requirement for council approval above \$10,000, that appears to be Lyndhurst's cutoff.
- Bedford
 - 104.01 CONTRACT PROCEDURES
 - (f) City Manager's discretionary Spending Authority City Manager may expend up to \$10,00 in accordance with city's current appropriation.
 - Higher than that, city manager needs the prior approval of council
- Independence
 - Charter Section 2
 - (c)(5) Purchasing agent may within amounts and items appropriated by Council, make purchases involving expenditures not in excess of \$15,000 on the basis of

requests for specifications submitted by the head of the department for which the purchase is made and approved by the Mayor or finance Director

- Rocky River
 - 123.02 Contract Approval
 - No contract for the City in excess of \$500 shall be awarded except on the approval of the board of control
- South Euclid
 - 123.01
 - Contracts or Purchases in excess of \$25,000 may be entered into and executed by the mayor upon the authorization of Council to advertise for bids, and such contracts shall be awarded to the lowest and best bidder upon approval of the Board of control

Ordinances that authorized expenditures of \$25,000 or less	Total expenditure
2019-1 (Bills Ordinance)	\$22,952.96
2019-8 (Beachwood Schools Support Organization)	\$1.00
2019-19 (Insurance reimbursement)	Up to \$200 per employee
2019-21 (Contract Renewal, Ohio CAT)	\$18,069.90
2019-22 (Purchase Order, Willo Transportation)	\$20,000
2019-26 (Bills Ordinance)	\$11,852.49
2019-30 (Citywide Solutions Camera)	\$20,957.00
2019-32 (Bills Ordinance)	4,717.00
2019-41 (Super Games inflatable rental)	\$19,792.28
2019-44 (Cruiser Set Up Hall Public Safety)	\$17,562.55
2019-45 (Bills Ordinance)	\$20,276.21
2019-53 (Building a dog park)	\$15,000.00
2019-55 (Bills ordinance)	\$7,830.22
2019-62 (Bills Ordinance)	\$22,800.77
2019-64 (Shi International Microsoft office)	\$8,259.09
2019-71 (Bills Ordinance)	\$2,808.13
2019-81 (Nexlog 740 recording system)	24,169.00
2019-108 (Microsoft exchange server)	\$22,532.81
2019-111 (Bills Ordinance)	\$8,030.12
2019-115 (Rescue Squad equipment)	\$5,730.00
2019-117 (Vogel Lubrication System)	\$4,871.00
2019-121 (Bills Ordinance)	\$7,259.25
2019-125 (Ohio Cat renewal)	\$18,069.90
2019-130 (Entercom search Engine Marketing)	\$18,000.00
2019-131 (Beachwood Buzz)	\$4,987.00
2019-138 (Purchase order for prisoner meals)	\$3,000
2019-146 (Iland Internet Solutions: secure cloud backup)	\$14,700
2019-151 (Bridge)	\$8.00 fee, pay \$6.50
2019-152 (Water Odyssey Splash Pad)	\$22,104.00
2019-156 (Bills Ordinance)	\$18,885.00
2019-163 (Advertisements in Crain's Cleveland)	\$17,294.00
2020-16 (Purchase order Willow Transportation)	\$20,000.00
2020-27 (Green Vision Materials Leaf Debris)	\$16,900.00
2020-41 (Gametime Shade Shelter)	\$16,644.80
2020-43 (Bills Ordinance)	\$20,566.75
2020-45 (Microsoft Office License)	\$14,996.10
2020-49 (community center Canopy roof Quotation)	\$23,000.00
2020-55 (Community cost share agreement with NEORSD)	\$16,937.00
2020-64 (Watchguard)	\$23,000
2020-66 (Just FOIA)	\$8,710.00
2020-67 (Bills Ordinance)	\$2,692.88
2020-77 (Bills Ordinance)	\$16,652.00
2020-85 (Sedgwick Adendum)	\$8,160.00
2020-87 (Compmanagement)	\$7,800.00
2020-89 (Bills Ordinance)	\$18,150.65

2020-96 (Bills Ordinance)	\$9,275.83
2020-101 (Bills Ordinance)	18,497.26
2020-105 (M&G pool Tile Replacement)	\$17,122.40
2020-109 (GPD Phase 2 Drainage Study)	\$24,210.00
2020-110 (Bills Ordinance)	\$4,819.57
2020-115 (Bills Ordinance)	\$7,332.62
2020-118 (Fire Department Extractor Units)	\$15,400.00
2020-119 (Beachwood Buzz)	\$4,987.00
2020-132 (Stryker Chest Compression Unit)	\$16,301.40
2020-133 (Stryker PowerPro Cot)	\$22,281.27
2020-145 (Bills Ordinance)	\$6,662.50
2020-157 (Bills Ordinance)	\$18,539.57
2020-161 (Mr. Excavator Storm Sewer Brenwood)	\$23,500.00
2020-162 (Storm Sewer Cedar)	\$20,500.00
2020-163 (Hall Public Safety Dash Cam Installation)	\$11,250.00

AN ORDINANCE AMENDING CHAPTER 145, SECTION 145.01(A)(2) TITLED “DEPARTMENT ESTABLISHED; PERSONNEL” AND SECTION 145.02 TITLED “APPOINTMENT OF PERSONNEL” OF THE CITY OF BEACHWOOD CODIFIED ORDINANCES; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, discrepancies were discovered in the Beachwood Codified Ordinances, Civil Service Rules, and the Administrative Salary Ordinance regarding the position referred to as Deputy Chief or Assistant Police Chief; and

WHEREAS, the Police Chief and the Mayor with the support and recommendation of Council wish to amend BCO Section 145.01 (a)(2) to reflect a name change to the position of Assistant Police Chief; and

WHEREAS, BCO Section 145.02 titled “Appointment of Personnel” will also need to be amended to reflect changes made regarding the term of appointment; and

WHEREAS, the Beachwood Police Department Table of Organization should also be accordingly amended.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Existing Section 145.01(a), “Department Established; Personnel,” of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, as follows (new language in **bold**):

145.01 DEPARTMENT ESTABLISHED; PERSONNEL.

(a) A Police Department is hereby established. The membership of the Department shall not exceed:

- (1) A Police Chief;
- (2) One ~~Assistant Chief of Police~~ **Deputy Chief**;
- (3) Six Lieutenants;
- (4) Five Sergeants; and
- (5) Thirty Seven full-time Patrol Officers.

In the event of a vacancy, the Mayor shall fill the position in accordance with Article VI, Section 3, of the Charter. The Mayor is hereby authorized to employ such number of the following personnel as is necessary to meet the needs of the Department, but not to exceed one Clerk of Courts, one Assistant Clerk of Courts, fifteen Dispatcher Clerks, two Administrative Assistants, one Assistant Jail Administrator, part-time Police Patrol Officers, correction officers and school guards, as required.

145.02 APPOINTMENT OF PERSONNEL

All members of the Police Department shall be appointed by the Mayor. The Chief of Police and the Deputy Chief of Police shall serve for the term of the Mayor unless sooner terminated by the Mayor. Other than the position of Chief of Police and Deputy Chief of Police, all appointments by the Mayor shall be in accordance with the rules and regulations of the Civil Service Commission.

* * * *

Section 2: The Beachwood Police Department Table of Organization is hereby amended effective June 7, 2021.

Section 3: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 4: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 5: This Ordinance is declared to be an urgent measure which is immediately necessary for the public peace, health or safety or the efficient operation of the City; and for the further reason that the employment provided herein is needed for the proper operation of an essential department of the City government; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 7th day of June, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 8th day of June, 2021.

Whitney M. Crook
Clerk

Approval: I have approved this legislation this 8th day of June, 2021, and filed it with the Clerk.

Marta S. Howard
Mayor

CITY OF BEACHWOOD

INTER-OFFICE MEMORANDUM

TO: James Pasch, Council President
Eric Synenberg, Legal and Personnel Chair
Justin Berns, Safety and Public Health Committee Chair

FROM: Martin Horwitz, Mayor 

DATE: June 1, 2021

SUBJECT: Assistant Police Chief – Deputy Police Chief Appointment

Soon after Mr. Hastings started, I reviewed with him my desire to fill the position created by City Council of Assistant Police Chief. During those discussions we discovered there were some discrepancies in our Code, Civil Service Rules and Regulations as well as our administrative salary ordinance. In short, this position is referred to in some City records as the Deputy Chief and others as the Assistant Police Chief. As such, we recommend the amendment of the following to provide consistency in moving forward as I look to fill this position:

- Beachwood Codified Ordinance Amendments
 - Section 145.01 (a) (2)
One ~~Assistant Police~~ Deputy Chief
 - Section 145.02
...The Chief of Police ~~and the Deputy Chief of Police~~ shall serve for the term of the Mayor.
Note: No other Assistant Department Director that I appoint, including the Assistant Fire Chief is appointed for the term of the Mayor. In an effort to attract qualified candidates, we wish to remain consistent with the other Assistant Department Directors of the City.
- Schedule D of the Administrative Salary Ordinance
 - Change Assistant Police Chief to Deputy Police Chief

Additionally, we will amend the job description currently titled Assistant Chief of Police to read Deputy Police Chief.

I request that these changes be brought before City Council for consideration as soon as possible and respectfully request that they be adopted so I may move forward in this regard. If you have any questions, please let me know.

Cc: Stewart Hastings, Law Director
Kelly Stillman, Police Chief
Dana Canzone, Human Resources Administrator
Whitney Crook, Clerk of Council

AN ORDINANCE AMENDING SECTION 927.02(C)(6), "PROCEDURES AND PRACTICES", OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, Section 927.06 (C)(6) governs the use of the Community Services Center including serving alcohol at City sponsored events; and

WHEREAS, the Community Services Director has requested an amendment to allow alcoholic beverages to be served at certain City sponsored events; and

WHEREAS, this Council desires to adopt the recommended amendment to 927.06 (C)(6).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Existing Section 927.06 (C)(6), "Procedures and Practices", of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, as follows:

927.02 PROCEDURES AND PRACTICES.

"(c) Special Conditions.

(1) Applicants for the use of the Community Center shall pay for or furnish any special supervisors needed, i.e., police protection, parking supervisors, etc., as determined by the Community Services Director or the Police Chief and approved by the Mayor.

(2) Applicants shall be responsible for any damage to the City property and for supervision of the use of the Community Center. The Community Services Director may charge for janitorial services if extra clean-up costs have been incurred over and above those which might normally be expected, at the rate of per employee hour for such extra services.

(3) Except for the groups listed in subsection (a)(1) above, no groups or individuals may reserve space more than once per calendar quarter.

(4) Campaign events or other political events associated with an individual running for office are not permitted.

(5) The sale, soliciting or advertising for sale of merchandise, circulars, tickets, prizes, rewards or other monetary rewards, or the collection of money or goods by any for profit entity shall not be permitted in the Community Center.

(6) Under no conditions may ~~alcoholic beverages~~, smoking or illegal drugs be used in connection with any function held in or on any City building or on City grounds, nor shall guns or weapons of any type be permitted inside any City building or on City grounds."

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 21st day of June, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 16th day of March, 2021.


Clerk

Approval: I have approved this legislation this 21st day of June, 2021, and filed it with the Clerk.


Mayor

CITY OF BEACHWOOD

ADMINISTRATIVE POLICY

Policy No. 2021-1

Date: Effective June 21, 2021

Policy Subject: Alcohol on City Property

PURPOSE: Recognizing that many local communities now permit alcohol at some public events, the City of Beachwood may permit alcohol on City property for a limited number of specific events/activities as defined below:

(a) GROUPS

The following groups will have consideration as it relates to alcohol at specific events or activities on City Property:

1. City of Beachwood
2. Beachwood Arts Council
3. Beachwood Chamber of Commerce
4. Beachwood Board of Education and affiliated community groups

(b) CRITERIA AND LIMITATIONS

1. Alcohol will be limited to beer, wine or similar beverages. Spirituous alcohol as defined by the State of Ohio will NOT be permitted.
2. Expected attendance will be primarily adults.
3. All permitting and proper procedures relating to alcohol at these events must be adhered to and in accordance with State Law.
4. Any person, group or member of our staff who is involved in the distribution of alcohol must be TIPS (required program for all bartenders) certified.
5. The organizing group may designate an outside vendor to obtain proper permits and supply alcohol.
6. Any outside vendor must agree to defend and indemnify the City of Beachwood and all its employees for any and all claims arising out of the serving of alcoholic beverages.
7. Any outside vendor must have liability insurance of at least one million dollars (\$1,000,000.00), and the insurance policy must name the City of Beachwood and all of its employees as additional named insureds.
8. No outside groups (other than the groups specifically outlined above) or individuals are permitted to bring alcohol on any city property or facility.

(c) APPROVAL

Approvals will be based on the recommendation of the Community Services Director and the approval of the Mayor. The Mayor reserves the right to refuse approval for any reason.

Martin S. Horwitz, Mayor Date

Larry Heiser, Finance Director Date

AN ORDINANCE AMENDING SECTION 618.14, "HUNTING PROHIBITED", OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Mayor has requested an amendment to allow for a Deer Management Program in the City of Beachwood, Ohio; and

WHEREAS, this Council desires to adopt the recommended amendment to 618.14.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Existing Section 618.14, "Hunting Prohibited", of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, as follows new language is in **bold**:

618.14 HUNTING PROHIBITED.

" The hunting of animals or fowl within the Municipality is prohibited **except when specifically authorized by a Deer Management Program**. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means **unless specifically authorized under the operations of a Deer Management Program**.
(Ord. 1969-54. Passed 7-7-69.)"

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

ORDINANCE NO. 2021-133

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 4th day of October, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 5th day of October, 2021.

Whitney M. Crook

Clerk

Approval: I have approved this legislation this 5th day of October, 2021 and filed it with the Clerk.

Mantel S. Howard

Mayor

AN ORDINANCE AMENDING CHAPTER 147, SECTION 147.01(A)(6) TITLED “ESTABLISHED; PERSONNEL” OF THE CITY OF BEACHWOOD, OHIO CODIFIED ORDINANCES; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Fire Chief and the Mayor with the support and recommendation of Council wish to amend BCO Section 147.01 (a)(6) to allow for the increase of full-time Firefighters from Thirty Three (33) to Thirty Nine (39) full-time Firefighters; and

WHEREAS, the Beachwood Fire Department Table of Organization should also be accordingly amended.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Existing Section 147.01, “Established; Personnel,” of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, as follows (new language in **bold**):

147.01 ESTABLISHED; PERSONNEL.

(a) A Fire Department is hereby established which may consist of, but shall not exceed, the following members and executive officers:

- (1) A Fire Chief;
- (2) One Assistant Fire Chief;
- (3) One Fire Prevention Officer and two Fire Inspectors;
- (4) Four Captains;
- (5) Six Lieutenants;
- (6) ~~Thirty-three~~ **Thirty Nine** full-time firefighters;
- (7) Such number of Community Emergency Response Team (“CERT”) members as the Safety Director shall deem necessary;
- (8) Two Administrative Assistants/Secretaries/Clerks.

In the event of a vacancy, the Mayor shall fill the position in accordance with Article VI, Section 3, of the Charter.

The Mayor is hereby authorized to employ such number of personnel as is necessary to meet the needs of the Department.

(Ord. 2016-35. Passed 2-16-16.)

(b) Part-time firefighters and part-time paramedics shall be under the direct control of the Fire Chief. Part-time firefighters and part-time paramedics shall be appointed by the Mayor upon the recommendation of the Fire Chief and shall continue in such capacity at the pleasure of the Mayor or until resignation.

(c) The CERT members of the Fire Department shall be under the direct control of the Fire Chief. The Fire Chief shall serve as Coordinator of Emergency Management in accordance with ORC Section 5502.25 for the City and shall determine the duties to be performed by CERT members. Such CERT members shall be approved by the Mayor/Safety Director upon the recommendation of the Fire Chief, and shall serve at the pleasure of the Mayor/Safety Director, or until resignation. CERT members shall meet such certification requirements and other qualifications as shall be established by the Fire Chief and approved by the Mayor/Safety Director. The Fire Chief shall certify on a quarterly basis that each CERT member has met such requirements and

qualifications. The CERT program shall continue for such period of time as the Mayor/Safety Director shall deem necessary to provide for the safety and protection of the residents and visitors of the City.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure which is immediately necessary for the public peace, health or safety or the efficient operation of the City; and for the further reason that the employment provided herein is needed for the proper operation of an essential department of the City government; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 6th day of December, 2021, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 7th day of December, 2021.

Whitney M. Crook
Clerk

Approval: I have approved this legislation this 7th day of December, 2021, and filed it with the Clerk.

Monte S. Howard
Mayor

INTEROFFICE MEMO

TO: Mayor Horwitz
FROM: Steven M. Holtzman, Chief
DATE: November 22, 2021
SUBJECT: Amending BCO

Mayor Horwitz,

With the initial approval, by Council, to increase the Fire Department staffing by 3 Firefighter/Paramedics, we will need to make the adjustment to the Codified Ordinance to allow the additional members. During the budget meeting we also discussed future plans to evaluate our staffing needs over time to add an additional 3 members when it is justified to do so with Council and the Mayor's approval. We would like to respectfully request that we adjust the BCO from the current 33 firefighter/paramedics to 39 firefighter/paramedics to accommodate our current and future increase in staffing.

Respectfully Submitted

A handwritten signature in blue ink, appearing to read "Steven M. Holtzman". The signature is fluid and cursive, with a long horizontal stroke at the end.

INTRODUCED BY: B. B. Janovitz

AMENDED ORDINANCE NO. 2022-22

AN ORDINANCE AMENDING BCO CHAPTER 1111, SECTION 1111.02, SUBSECTION (L) TITLED "CLASSIFICATION OF USES" OF THE CITY OF BEACHWOOD, OHIO PLANNING AND ZONING CODE

WHEREAS, Penske on behalf of Porsche has requested an amendment to BCO Chapter 1111, Section 1111.02, subsection (L) Classification of Uses; and

WHEREAS, it is Council's desire to refer said requested amendment to its Planning and Zoning Commission for study and a report and recommendation in accordance with BCO 1107.01.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio that:

Section 1: The Council of the City of Beachwood, having received, on or about December 30, 2021, a request for an amendment to the City's Planning and Zoning Code, a copy of which is attached hereto and incorporated herein as Exhibit "A", placed this issue and said proposed amendment on first reading, and referred the proposed amendment to the Planning and Zoning Commission for its report and recommendation.

The Proposed Amendment was recommended for approval by the Planning and Zoning Commission Meeting at its January 27, 2022 meeting.

Upon Council's receipt of the recommendation of the Planning and Zoning Commission, the issue of the within zoning amendment shall be set for a Public Hearing on the 21st day of March, 2022 at Beachwood City Hall, Council Chambers, and shall be read by Council on three separate occasions.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 21st day of March, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 22nd day of March, 2022.


Clerk

Approval: I have approved this legislation this 22nd day of March, 2022 and filed it with the Clerk.


Mayor

AMEND SECTION 1111.02(L) TO READ AS FOLLOWS:

1111.02 CLASSIFICATION OF USES.

- (l) Class U-9 Uses.
 - (1) Gasoline service station limited to sites with frontage on Chagrin Boulevard only.
 - (2) Motels and hotels.
 - (3) Restaurants; Restaurants may be permitted outdoor dining areas and/or curbside pickup provided that they first obtain a Site Development Plan approval The number of outdoor seats and/or spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.
 - (4) Automobile agencies limited to sites with frontage on Chagrin Boulevard, Central Parkway, and Orange Place only.
 - (5) Banks.
 - (6) Office buildings.
 - (7) Child Day Care Centers pursuant to Section 1155.02.
 - (8) Adult Day Care Centers pursuant to Section 1155.03.
 - (9) Licensed health care facilities with a Conditional Use Permit.

AN ORDINANCE AMENDING THE CITY OF BEACHWOOD, OHIO PLANNING AND ZONING CODE BY AMENDING CHAPTER 1111 TITLED “DISTRICTS AND ZONE MAP GENERALLY” AND ADDING NEW CHAPTER 1122 TITLED “U-4C INTEGRATED MIXED USE, MULTI-FAMILY RESIDENTIAL, OFFICE, RETAIL, RECREATION BUSINESS DISTRICT”

WHEREAS, My Place Group has requested amendments to the City of Beachwood Planning and Zoning Code by amending Chapter 1111 and adding new Chapter 1122; and

WHEREAS, it is Council’s referred said requested amendments to its Planning and Zoning Commission for study and a report and recommendation in accordance with BCO 1107.01 on March 21, 2022.

NOW , THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio that:

Section 1: The Council of the City of Beachwood, having received a request for an amendment to the City’s Planning and Zoning Code, a copy of which is attached hereto and incorporated herein as Exhibit “A” and Exhibit “B”, placed said proposed amendments on first reading, and referred the proposed amendments to the Planning and Zoning Commission for its report and recommendation.

Upon receipt of the report and recommendation of the Planning and Zoning Commission, the issue of the zoning amendments was set for a Public Hearing on the 19th day of September, 2022 at Beachwood City Hall, Council Chambers, and shall be read by Council on three separate occasions.

Section 2: The Clerk of Council advertised this hearing in a newspaper of general circulation in the City for a period of not less than thirty (30) days prior to the Public Hearing, setting forth the substance of the proposed amendment.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 21st day of November, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 22nd day of November, 2022

Whitney M. Crook
Clerk

Approval: I have approved this legislation this 22nd day of November, 2022 and filed it with the Clerk.

Justin Brown
Mayor

Tactical Planning, LLC

P.O. Box 3163
Cuyahoga Falls, Ohio 44223
Ph: 440-725-1886
geosmerigan@gmail.com

TO: Justin Berns, Mayor
Beachwood City Council

FROM: George Smerigan, City Planner

DATE: October 3, 2022

RE: **Ordinance 2022-41**



As a follow up to preparing the "Order of Actions" for the My Place zoning amendments, I have made some recommended revisions to the text amendments contained in Ordinance 2022-41 which is pending before Council.

Attached are two documents dated October 3, 2022. One document revises the language of proposed Chapter 1122. The modifications to the version that is currently before City Council are shown in red. Note that:

1. I have modified the title of the proposed district for simplicity's sake particularly with regard to future references.
2. I have modified Sections 1122.02 and 1122.06 to better clarify that this is a planned development district and that the overall concept plan will control all future uses on the site and that substantive changes to that plan must return to Council for approval. This is in response to questions raised by members of Council about the requirement to follow the plan if the property is rezoned.
3. The change to Sections 1122.04(a)(1) and 1122.04(e)(2) merely reflect the revised development plan.

The only change to proposed Chapter 1111 as contained in the current legislation is the name of the new district. That is the other attached document.

I think these changes address the questions I have received from Council members and make the language of the ordinance clearer and the control by the City much stronger.

REV 10/3/2022

1111.01 DISTRICTS AND ZONE MAP GENERALLY.

For the purpose of regulating the location of trades, industries, residential houses and other uses of property, the number of square feet of lot area per family housed, the width of lots, the location and size of yards and the alignment of buildings upon street frontages, the City is hereby divided into the following classes of Use Districts, termed respectively:

- Class U-1 or Single-Family Residential District
- Class U-2A or Attached Single-Family Residential District
- Class U-3 or Multi-Family Residential District
- Class U-3A or High-Rise Apartment District
- Class U-3C or Planned Multi-Family Residential District
- Class U-4A or Integrated Business District
- Class U-4B or Shopping Center District
- Class U-4C or Integrated Mixed-Use District
- Class U-5 or Public and Institutional District
- Class U-7A or General Office Building District
- Class U-8 or Industrial and Office Mixed-Use District
- Class U-8A or Office Building and Research District
- Class U-9 or Motor Service District
- Class U-10 or Planned Mixed-Use Development District

1111.02 CLASSIFICATION OF USES.

For the purpose of this Code, the various uses to which buildings and premises can be devoted are divided into groups, classes and subdivisions as set forth in the following classification. These uses, hereinafter classified as Class U-1, Class U-2A, Class U-3, Class U-3A, Class U-3C, Class U-4A, Class U-4B, Class U-5, Class U-7A, Class U-8, Class U-8A, Class U-9 and Class U-10, are permitted under regulations herein set forth in the respective Use Districts allotted to such uses.

(a) Class U-1 Uses.

- (1) Single-Family Dwellings.

(b) Class U-2A Uses.

- (1) Attached Single-Family Dwellings.

(c) Class U-3 Uses.

- (1) Multi-Family Dwellings.

(d) Class U-3A Uses.

- (1) High-rise Multi-Family Dwellings.

(e) Class U-3C Uses.

- (1) Multi-Family Dwellings.

(Ord. 2011-170. Passed 3-19-12.)

(f) Class U-4A Uses.

- (1) Stores selling commodities at retail such as, but not necessarily limited to:

A. Groceries; supermarkets; bakeries; delicatessens. Such uses may be permitted curbside pickup provided that they first obtain a Site Development Plan approval. The number of spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.

B. Restaurants; Restaurants may be permitted outdoor dining areas and/or curbside pickup provided that they first obtain a Site Development Plan approval. The number of outdoor seats and/or spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.

C. Drug stores.

D. Wearing apparel stores.

E. Variety stores.

- F. Paint and wallpaper; hardware stores.
 - G. Furniture; household appliances; draperies; floor coverings.
 - H. Electronic appliances.
 - I. Florist; gift; jewelry; sporting goods stores.
- (2) Service establishments such as, but not necessarily limited to:
- A. Barbers; beauty shops; nail salons.
 - B. Dry cleaning; laundries; tailor shops.
 - C. Appliance repair.
 - D. Banks and other financial institutions.
 - E. Exercise and training facilities.
 - F. Private schools and colleges.
 - G. Dance studios; photographic studios.
 - H. Printing shops; copy centers.
 - I. Child Day Care Centers pursuant to Section 1155.02.
 - J. Adult Day Care Centers pursuant to Section 1155.03.
 - K. Indoor recreation and athletic facilities,
 - L. Day spas; tanning salons; and massage therapy.
- (3) Offices including medical offices.
- (4) Hotels.
- (5) Multi-Family Dwellings above the first floor with a Conditional Use Permit.
- (6) Banks and drug stores may be permitted accessory drive-thru, drive-up, or pickup arrangements and facilities provided they first obtain a Conditional Use Permit.
- (g) Class U-4B Uses.
- (1) Shopping centers.
- (h) Class U-4C Uses.
- (1) Stores selling commodities at retail such as, but not necessarily limited to:
 - A. Specialty groceries; bodegas; farmers markets (per Code Sec. 1155.04). Such uses may include curbside pickup as shown on the Site Development Plan including areas or parking spaces dedicated for curbside pickup.
 - B. Restaurants; bars; coffee houses; delicatessens; bakeries; food courts; buffets; food halls; including outdoor dining areas and/or curbside pickup as shown on the Site Development Plan.
 - C. Apparel stores.
 - D. Variety stores.
 - E. Boutique home good and decor stores.
 - F. Florist; gift; candles; jewelry; sporting goods stores.
 - G. Specialty retail sales and showrooms; interior decorating and design services.
 - H. Business services.
 - I. Personal services.
 - J. Entertainment, amusement, and arcades, including those that function as restaurants or bars and contain bowling, video games and similar uses.
 - (2) Service establishments such as, but not necessarily limited to:
 - A. Barbers; beauty shops, and nail salons.
 - B. Dry cleaning; laundries; tailor shops.
 - C. Indoor and outdoor fitness facilities.

D. Day spas, health spa, tanning salons, and massage therapy.

E. Dance studios and exercise and training facilities.

F. Art studios and galleries.

G. Pet care facilities.

(3) Offices including professional, administrative, executive, sales, governmental, utility, medical offices, and related facilities

(4) Multi-Family Dwellings

(5) Parks and recreation facilities

(6) Hotels

(7) Banks

(8) Event and recreational spaces for on-site tenants (both residential and retail/office/commercial) and rental to non-tenants, including for parties, concerts, events, business shows, and similar uses at a capacity that is supported by on-site parking; or for events beyond the capacity of on-site parking based on permission from adjacent property owners to park on their property.

(9) Additional uses and/or future uses that are compatible with those listed above

(i) Class U-5 Uses.

(1) Governmental facilities.

(2) Parks and public recreation facilities.

(3) Public and private schools and colleges.

(4) Nursing homes.

(5) Places of worship.

(6) Libraries.

(7) Museums.

(8) Community Centers.

(j) Class U-7A Uses.

(1) Professional, administrative, executive, sales (without samples and merchandising services), governmental and public utility offices.

(2) Services of a limited nature such as beauty and barber shops, photographic developing and blueprinting.

(3) Telephone exchanges.

(4) Child Day Care Centers pursuant to Section 1155.02.

(5) Adult Day Care Centers pursuant to Section 1155.03.

(6) Licensed health care facilities with a Conditional Use Permit.

(7) Professional medical offices.

(8) Banks and other financial institutions.

(9) Restaurants; Restaurants may be permitted outdoor dining areas and/or curbside pickup provided that they first obtain a Site Development Plan approval. The number of outdoor seats and/or spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.

(10) Multi-Family Dwellings above the first floor with a Conditional Use Permit.

(k) Class U-8 Uses.

(1) Professional, administrative, executive, and sales offices.

(2) Professional medical offices.

(3) Licensed health care facilities.

(4) Research and development laboratories and testing facilities.

(5) Wholesale and retail businesses and showrooms.

(6) Retail sales associated with wholesale businesses and showrooms, interior decorating, and design services, or with articles or goods created, manufactured, or assembled on the premises.

(7) Storage and distribution of finished or packaged goods subject to the provisions of Section 1129.07.

(8) Light manufacturing, fabrication, and assembly operations.

(9) Business services.

(10) Personal services.

(11) Printing; publishing; engraving.

(12) Photographic studios, sales, and processing.

(13) Copy, blueprinting and reproduction services.

(14) Interior decorating and design services and facilities.

(15) Postal facilities and package delivery services.

(16) Public utility facilities.

(17) Municipal facilities.

(18) Financial institutions.

(19) Child Day Care Centers pursuant to Section 1155.02.

(20) Adult Day Care Centers pursuant to Section 1155.03.

(21) Dance studios.

(22) Recording and broadcast studios.

(23) Art studios and galleries.

(24) Athletic facilities, fitness centers, and health spas 8,000 square feet or less.

(25) The following uses may be permitted with a Conditional Use Permit:

A. Schools and training facilities.

B. Athletic facilities, fitness centers, and health spas greater than 8,000 square feet.

C. Licensed health care facilities.

D. Restaurants provided, however, that no such use shall be established on a site requiring a parking variance to accommodate said use. Restaurants may be permitted curbside pickup. The number of spaces dedicated for pickup shall be as authorized in the Conditional Use Permit.

E. Daily and overnight pet care facilities provided that such facilities meet the following criteria:

1. The maximum number of pet lodging units shall not exceed one (1) per each one hundred (100) square feet of gross floor area of the first floor of the building.

2. Runoff from all lodging units and exercise areas shall be directed to the sanitary sewer system and not the storm sewer system.

3. An outdoor exercise and relief area shall be provided which shall contain a minimum of 1200 square feet and shall be enclosed with an opaque fence eight feet (8') in height.

4. No animals shall be permitted outdoors between the hours of 10:00 p.m. and 6:00 a.m.

5. Wastes shall be controlled and collected on site and shall be properly removed at least two (2) times per week.

6. There shall be no noise from animals measurable beyond the property boundary lines.

7. There shall be a minimum of two (2) employees on site at all times.

8. Parking spaces shall be provided at the rate of five (5) spaces plus one (1) space for each ten (10) lodging units at maximum capacity.

9. The maximum number of daily or day care animals shall not exceed fifty percent (50%) of the approved number of lodging units.

10. There shall be no grooming other than of pets which are being lodged for overnight stays.

11. There shall be no retail sales of pet supplies or products.

12. There shall be no pet training classes conducted on the premises.

13. The use shall not be so located as to have an adverse impact on the use, reuse, and/or redevelopment of any other property in the District.

F. Veterinary hospitals and clinics.

G. Multi-family residences provided that no dwelling units shall be located on the first or ground floor.

(l) Class U-8A Uses.

(1) Professional, administrative, executive, governmental and public utility offices.

(2) Licensed health care facilities with a Conditional Use Permit.

(3) Professional medical offices.

(4) Research and development laboratories or testing offices.

(5) Wholesale offices and showrooms.

(6) Manufacturing and assembling as permitted in Class U-8.

(7) Child Day Care Centers pursuant to Section 1155.02.

(8) Adult Day Care Centers pursuant to Section 1155.03.

(m) Class U-9 Uses.

(1) Gasoline service station limited to sites with frontage on Chagrin Boulevard only.

(2) Motels and hotels.

(3) Restaurants; Restaurants may be permitted outdoor dining areas and/or curbside pickup provided that they first obtain a Site Development Plan approval. The number of outdoor seats and/or spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.

(4) Automobile agencies limited to sites with frontage on Chagrin Boulevard and Central Parkway only.

(5) Banks.

(6) Office buildings.

(7) Child Day Care Centers pursuant to Section 1155.02.

(8) Adult Day Care Centers pursuant to Section 1155.03.

(9) Licensed health care facilities with a Conditional Use Permit.

(10) Professional medical offices.

(n) Class U-10 Uses.

(1) Office buildings.

(2) Licensed health care facilities with a Conditional Use Permit.

(3) Professional medical offices.

(4) Motels and hotels.

(5) Restaurants; Restaurants may be permitted outdoor dining areas and/or curbside pickup provided that they first obtain a Site Development Plan approval. The number of outdoor seats and/or spaces dedicated for curbside pickup shall be as authorized on the approved Site Development Plan.

(6) Motor vehicle service stations.

(7) Child Day Care Centers pursuant to Section 1155.02.

(8) Adult Day Care Centers pursuant to Section 1155.03.

(Ord. 2022-___. Passed __-__-22.)

UPDATED 10/3/22

CHAPTER 1122

U-4C INTEGRATED MIXED USE, ~~MULTI-FAMILY RESIDENTIAL, OFFICE, RETAIL, RECREATIONAL, BUSINESS~~
DISTRICT

1122.01 Intent.

1122.02 Permitted uses.

1122.03 Area, yard, and height regulations.

1122.04 Design Criteria

~~1122.04-05~~ Off-street parking and loading facilities.

~~1122.05-06~~ Site development plans.

~~1122.06-07~~ Signs

CROSS REFERENCES

Districts established - see P. & Z. 1111.01

Nonconforming uses - see P. & Z. Ch. 1147

Certificates of occupancy - see BLDG. Ch. 1313

Building permits, fees, and deposits - see BLDG. Ch. 1329

1122.01 INTENT

The City of Beachwood 2015 Master Plan, called for the adoption of new mixed use zoning districts including those that are; walkable and friendly to pedestrians, promotes mixed-use redevelopment near the Chagrin Blvd corridor and other outdated commercial areas to encourage reuse and growth where industry and jobs currently exist, encourage redevelopment of the Richmond Road corridor to support higher-density residential neighborhoods, incentivize housing that accommodates future need and grows the City's population, provides different housing choices for young people, separates small apartments from existing single family uses, promotes mixed use including multi-family, and to remove barriers to adaptive re-use of older buildings. The City recognizes the changing nature of the Park East corridor, situated between the Chagrin Blvd. corridor and Richmond Road corridor and creates this new U-4C district to rezone certain portions adjacent to I-271 and currently zoned U-9, to meet 2015 Master Plan goals and vision. This U-4C district is only designed as a possible rezoning for areas currently zoned U-9, located north of Harvard, south of Chagrin.

It is the intent of this Chapter (Class U-4C Districts) to provide for the establishment of a district for high density mixed-use, multi-family residential, office, retail, services, recreational, event space, hotel, apartments, and similar compatible uses. This District shall provide for the establishment of attractive and well-designed mixed-use developments which offer quality housing, offices, services, entertainment spaces, and recreation for nearby residents and office workers to create additional housing, office, and mixed-use opportunities including commercial and retail areas and for the City's primary employment centers.

1122.02 ESTABLISHMENT OF U-4C INTEGRATED MIXED USE, ~~MULTI-FAMILY RESIDENTIAL, OFFICE, RETAIL, RECREATIONAL, BUSINESS~~-DISTRICT

The following criteria shall govern the establishment of any U-4C Integrated Mixed Use, ~~Multi-Family Residential, Office, Retail, Recreational, Business~~-District:

- (a) No such District shall be established except subsequent to an application by the property owner requesting that the land be subject to these special provisions, which application shall include an Overall Concept Development Plan, which shall control all future use of the property.
- (b) The layout of the Overall Concept Development Plan shall be designed to create an orderly arrangement of uses and buildings compatible with the landscape and topography of the area with the planning principals of the City.
- (c) Each U-4C Integrated Mixed Use, ~~Multi-Family Residential, Office, Retail, Recreational, Business~~ District shall be developed in conformance with an approved Final Site Development Plan or Plans which ~~has have~~ been reviewed and approved by the Planning and Zoning Commission in accordance with the provisions set forth herein and ~~consistent~~ which shall be in substantial compliance with the approved Overall Concept Development Plan as determined by the Planning and Zoning Commission. -

1122.03 DEVELOPMENT STANDARDS

The following standards and requirements shall apply to all U-4C Integrated Mixed Use, ~~Multi-Family Residential, Office, Retail, Recreational, Business~~ Districts:

- (a) Buildings and land in a Class U-4C District shall be used and buildings shall be designed, created, altered, or intended for the uses designated as Class U-4C uses in Section 1111.02, except that other similar harmonious and compatible uses as may be determined by the Commission and approved by Council may be permitted.
- (b) Accessory uses customarily incident to the main uses listed above shall be permitted provided they are planned and developed in connection with the main building. Such accessory uses among those permitted under this section shall include:
 - (1) Parking garages and off-street parking and loading areas for residents, employees, guests, and customers as provided in this chapter.
 - (2) Solid waste collection, compaction, storage, or container facilities, provided such facilities shall be located within or adjacent to the main building and physically separated from other uses by a wall, screen, fence, or similar partition, and otherwise designed to enable collection and pickup of the waste materials.

1122.04 DESIGN CRITERIA

- (a) Area.
 - (1) The aggregate ground area occupied by the building(s) shall not exceed ~~thirty~~forty-five percent (~~35~~45%) of the total area of the development or such area as may be designated on the Overall Concept Development Plan.
 - (2) Consistent with the current existing or adjacent landscape plans on existing parcels, or twenty percent (20%) of the total lot area, whichever is less, shall be developed as planted, hardscapes, terraces, patios, sidewalks, and other open occupiable spaces in accordance with a landscape plan as approved by Commission and shall be maintained in good condition. The total lot area may include elevated areas within the overall site including upper floor exterior spaces and gardens.
 - (3) The minimum lot width at the building setback line shall be one-hundred-fifty feet (150').
- (b) Yards.
 - (1) A front yard of not less than twenty-five feet (25') shall be provided.
 - (2) Within a U-4C District, side yards shall be not less than five feet (5').
 - (3) The rear yard shall not be less than five feet (5').

- (4) A landscape plan with screening as necessary from adjacent uses; where a U-4C area is adjacent to other U-4, U-5, U-7, U-8, U-9, or U-10 uses the screening requirement will be consistent with screening currently existing (as any U-4C district will be a rezoning to an already developed parcel) or as determined necessary by Planning Commission, with a goal of increasing walkability and having the Park East Drive corridor function overall as a mixed-use area.
- (c) Off-Street Parking and Loading in Yards. Accessory off-street parking in a front yard shall be permitted no closer than five feet (5') from a street line. Accessory off-street loading spaces in a front yard shall be permitted no closer than fifty feet (50') from a street line.
 - (1) Accessory off-street parking and driveways in a side or rear yard shall be permitted no closer than five feet (5') from a property line or thirty feet (30') from a U-1, U-2, or U-3 residential District line.
 - (2) Accessory off-street loading in a side or rear yard shall be permitted no closer than five feet (5') from a property line or fifty feet (50') from a U-1, U-2, or U-3 residential District line.
- (d) Height. Building height shall not exceed seventy-five feet (75), exclusive of towers, cornices, or similar features.
- (e) The following minimum standards must be implemented for all new or modified developments within the Class U-4C District:
 - (1) A minimum of forty percent (40%) of the development's floor area must be developed and maintained as residential uses. In new construction the first floor/ground floor must have commercial/retail/office uses; residential uses shall be located on upper floors. In adaptive re-use of structures that previously had residential on the first floor, first floor residential units shall be permitted.
 - (2) A minimum of twelve and 1/2 percent (12.5%) of the development's building floor area, exclusive of parking structures, must be developed and maintained as retail, restaurant, office, and services uses.

1121.05 OFF-STREET PARKING AND LOADING FACILITIES

Off-street parking and loading facilities shall be provided in accordance with Chapter 1144, except for the following:

- (a) Parking space shall be not less than one hundred and sixty-two (162) square feet (minimum of nine feet (9') by eighteen feet (18') exclusive of drives and turning space, provided however that existing non-conforming spaces may be maintained at current dimensions. All parking lot drive aisles will be not less than twenty-four feet wide.
- (b) The number of parking spaces may be reduced to account for shared parking associated with mixed-use facilities, so long as the number of parking spaces is supported by a parking study and approved by the Commission.
- (c) A minimum of one (1) square foot of landscaped area shall be provided within the parking area for each one hundred (100) square feet of vehicle use area; but this area may be reduced further to match landscaped areas in adjacent buildings and developments.
- (d) Only one and one-half (1.5) off-street parking spaces shall be required for each Multi-Family Dwellings. This may be reduced based on the shared parking study.
- (e) Except as may be modified by the shared parking study detailed above, parking for commercial, office, and retail space shall be as follows:
 - (1) 3.8 spaces per 1,000 square feet of office space.
 - (2) 4 spaces for 1,000 square feet of retail

- (3) 14.7 spaces for 1,000 square feet of restaurant space
- (f) Electronic car charging stations shall be permitted in parking areas as shown on a Site Development Plan.

1121.06 SITE DEVELOPMENT PLANS

Final Site Development Plans are required and shall be prepared for all proposed developments in a Class U-4C District. Final Site Development Plans shall be prepared and reviewed in accordance with the provisions of Chapter 1108 and shall be in substantial compliance with the Overall Concept Development Plan approved by City Council as part of the rezoning of the property. If the Planning and Zoning Commission determines that a proposed Final Site Development Plan constitutes a substantial departure from form, nature, spirit, or intent of the approved Overall Concept Development Plan, such application shall be denied until any such modification or variation is presented to and approved by City Council in the same manner as the original Overall Concept Development Plan. This section supersedes anything inconsistent elsewhere in the code, including but not limited to Chapters 1144, 1145, 1146.

1121.07 SIGNS

Notwithstanding section 1141, signs may be approved as part of the overall-final site development plan. Signs may include large building mounted electric signs or adjacent pedestal or freestanding signs, signs advertising the overall site and site tenants, and similar signs. ~~Signage may be approved as part of the site development plan approval.~~

(Ord. 2022-___. Passed __-__-22.)

AN ORDINANCE AMENDING BCO SECTION 121.09, TITLED “ADVERTISING FOR BIDS; AWARDING CONTRACTS;” AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Charter of the City of Beachwood Article III, Section 5(3)(E) provides that Council shall provide a procedure for the awarding of contracts that procedure is outlined in BCO Section 121.09 titled “Advertising for Bids; Awarding Contracts”; and

WHEREAS, the Finance Director, in a Memorandum dated April 18, 2022, requests that BCO Section 121.09 be amended to authorize the City to join the Equalis Group, which is a national Cooperative Purchasing Agency; and

WHEREAS, the Finance Director has also requested to remove Sourcewell as an accepted cooperative purchasing agency; and

WHEREAS, Equalis Group is a cooperative purchasing organization that provides publicly procured, competitively solicited contracts for a wide array of products and services.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio that:

Section 1: Council hereby amends Section 121.09 of the Codified Ordinances to add the following language:

(1) The City may participate in contracts authorized by ~~Sourcewell~~ **Equalis Group** cooperative purchasing program, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, and other State of Ohio cooperative purchasing programs in order for the City to purchase equipment, materials, supplies and other articles that have been competitively bid in accordance with participating cooperative purchasing programs.

(2) The Mayor is authorized to agree, in the name of the City, to be bound by all terms and conditions that the ~~Sourcewell~~ **Equalis Group** cooperative purchasing program, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, and other State of Ohio cooperative purchasing programs prescribes.

(3) The Mayor is authorized to agree, in the name of the City, to directly pay any vendor, under contract with the ~~Sourcewell~~ **Equalis Group** cooperative purchasing program, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, and other State of Ohio cooperative purchasing programs in which the City participates, for those items that the City receives pursuant to the contract.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

ORDINANCE NO. 2022-64

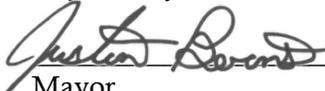
Section 3: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 2nd day of May, 2022, and presented to the Mayor for approval or rejection in accordance with Article Section 8 of the Charter on the 3rd day of May, 2022.


Clerk

Approval: I have approved this legislation this 3rd day of May, 2022, and filed it with the Clerk.


Mayor



MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Master Intergovernmental Cooperative Purchasing Agreement (the “**Agreement**”) is entered into by and between those certain government agencies that execute a Management Services Agreement (“**Lead Agencies**”) with Equalis Group LLC (“**Equalis Group**”) to be appended and made a part hereof and such other public agencies, non-profit organizations, and businesses (each a “**Purchasing Group Member**”) who register to participate in the cooperative purchasing programs administered by Equalis Group and its affiliates and subsidiaries (collectively, “**Equalis Group Purchasing Program**”) by either registering on an Equalis Group Purchasing Program website (such as www.equalisgroup.org) or by executing a copy of this Agreement.

RECITALS

WHEREAS, after a competitive solicitation and selection process conducted by Lead Agencies, Lead Agencies enter into master agreements (“**Master Agreements**”) with awarded suppliers to provide a variety of goods, products, and services (“**Products**”) to the applicable Lead Agency and Purchasing Group Members;

WHEREAS, Master Agreements are made available to Purchasing Group Members by Lead Agencies through the Equalis Group Purchasing Program and provide that Purchasing Group Members may voluntarily purchase Products on the same terms, conditions, and pricing as the Lead Agency, subject to any applicable federal and/or local purchasing ordinances and the laws of the State of purchase; and

WHEREAS, in addition to Master Agreements, the Equalis Group Purchasing Program may from time to time offer Purchasing Group Members the opportunity to acquire Products through other group purchasing agreements.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and of the mutual benefits to result, the parties hereto agree as follows:

1. Each party will facilitate the cooperative procurement of Products.
2. The procurement of Products by Purchasing Group Member party to this Agreement shall be conducted in accordance with and subject to the relevant federal, state, and local statutes, ordinances, rules, and regulations that govern Purchasing Group Member’s procurement practices.
3. The cooperative use of Master Agreements and other group purchasing agreements shall be conducted in accordance with the terms and conditions of such agreements, except as modification of those terms and conditions is otherwise allowed or required by applicable federal, state, or local law.
4. The Lead Agencies will make available, upon reasonable request and subject to convenience, information about Master Agreements which may assist in facilitating and improving the procurement of Products by the Purchasing Group Member.
5. Purchasing Group Member agrees that Equalis Group Purchasing Program may provide access to group purchasing organization (“**GPO**”) agreements directly or indirectly by enrolling Purchasing Group Member in another GPO’s purchasing program; provided that the purchase of Products shall be at Purchasing Group Member’s sole discretion.
6. Purchasing Group Member shall make timely payments to the distributor, manufacturer, or other vendor (each a “**Supplier**”) for Products procured and received through any Master Agreement or GPO group purchasing agreement (each an “**Equalis Agreement**”) in accordance with the terms and conditions of this Agreement and of the Equalis Agreement, as applicable.
7. Purchasing Group Member acknowledges and agrees that Equalis Group may receive fees (“**Administrative Fees**”) from Suppliers, which are typically calculated as a percentage of the dollar value of purchases made by Purchasing Group Member under an Equalis Agreement. Equalis Group’s standard Administrative Fees are two percent (2%) or less. Equalis Group shall provide Purchasing Group Member with access to a listing of Equalis Agreements that provide for the payment to Equalis of

Administrative Fee in excess of three percent (3%). Additionally, Equalis Group shall provide Purchasing Group Member with access to an annual report listing Purchasing Group Member's purchases of Products through Equalis Agreements and the associated Administrative Fees received by Equalis Group.

8. Purchasing Group Member agrees that Products purchased under Equalis Agreements are for Purchasing Group Member's own use in the conduct of its business, and in no event shall Purchasing Group Member sell, resell, lease, or otherwise transfer goods purchased through Equalis Agreements to an unrelated third party unless expressly permitted by the terms of the applicable Equalis Agreement.
9. Payment for Products and inspections and acceptance of Products ordered by Purchasing Group Member shall be the exclusive obligation of Purchasing Group Member. Disputes between Purchasing Group Member and any Supplier shall be resolved in accordance with the law and venue rules of the State of purchase unless otherwise agreed to by Purchasing Group Member and the Supplier. The exercise of any rights or remedies by Purchasing Group Member shall be the exclusive obligation of Purchasing Group Member.
10. Purchasing Group Member shall not use this Agreement or the terms and conditions of any Equalis Agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
11. Purchasing Group Member shall be responsible for the ordering of Products under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a party procuring Products under this Agreement. To the extent permitted by law, the party procuring Products shall hold any non-procuring party harmless from any liability that may arise from action or inaction of the party procuring Products. Without limiting the generality of the foregoing, Equalis Group Purchasing Program makes no representations or warranties regarding any Product or Equalis Agreement and shall have no liability for any act or omission by a Supplier or other party under an Equalis Agreement.
12. This Agreement shall remain in effect unless terminated by one party giving thirty (30) days' written notice to the other party. The provisions of **Sections 5, 6, 7, 8, and 9** hereof shall survive any such termination.
13. If any term or provision of this Agreement is held invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
14. This Agreement and the rights and obligations hereunder may not be assignable by either party hereto without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed, provided, however, that Purchasing Group Member and Equalis Group may assign their respective rights and obligations under this Agreement without the consent of the other party in the event either Purchasing Group Member or Equalis Group shall hereafter effect a corporate reorganization, consolidation, merger, merge into, sell to, or transfer all or substantially all of its properties or assets to another entity. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and assigns. Any instrument purporting to make an assignment in violation of this **Section 14** will be null and void.
15. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.
16. Equalis shall not be liable to Purchasing Group for any action, or failure to take action, of a Supplier in connection with the performance of Supplier's obligations under an Equalis Agreement.
17. Each party to this Agreement acknowledges it has read the Agreement and represents and warrants that it has the necessary legal authority and is legally authorized to execute and enter into this Agreement.
18. This Agreement shall take effect upon Purchasing Group Member (i) executing a copy of this Agreement, or (ii) registering on an Equalis Group Purchasing Program website.



The easiest way to complete this form is to visit: www.equalisgroup.org/member-registration. You may also fill out this form electronically, print and sign it, then scan and email the fully completed document to membership@equalisgroup.org.

Agency Information		
Agency Name:		
Agency Type:		
Agency Department:		
Street Address:		
City / St / Zip:		
Phone #:		
Federal Tax ID:		
Website URL:		

Primary Contact Information	
Name:	
Title:	
Phone #:	
Email:	
Which contract(s) are you interested in?:	

IN WITNESS WHEREOF, I hereby acknowledge, on behalf of _____, that I have read and agreed to the general terms and conditions set forth in the Equalis Group Master Intergovernmental Purchasing Agreement.

Authorized Signator	
Name:	
Title:	
Date:	

Signed: _____

**CITY OF BEACHWOOD
FINANCE DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Mayor Justin Berns
FROM: Larry A. Heiser, Finance Director *LH*
RE: Sourcewell
DATE: April 18, 2022

Mayor

Council approved NJPA (National Joint Powers Alliance) in 2017 with ordinance 2017-39. NJPA then transformed into Sourcewell in 2018. After a few incidents in the past 2 years I would like to go to Council and rescind 2017-39 and no longer utilize Sourcewell as a cooperative purchasing agency. Beachwood City Auditor Harvey Rose, myself, and Purchasing Supervisor Carol Morrison, in our recent interactions with Sourcewell and lack of transparent documentation provided, are skeptical of their practices and therefore no longer want to utilize their pricing structures.

Below is from the Sourcewell website as to how they are funded.

Suppliers realize substantial efficiencies through their ability to respond to a single Sourcewell solicitation and Request for Proposal (RFP) that will potentially earn thousands of sales opportunities that might otherwise require unique proposal responses. From these efficiencies, suppliers pay a small administrative fee to Sourcewell calculated as a percentage of sales processed through the competitively solicited procurement contracts awarded and held by the supplier.

I would propose that the City of Beachwood become a member of the Equalis Group. The Equalis Group is a cooperative purchasing organization that provides publicly procured, competitively solicited contracts for a wide array of products and services. Their Master Agreements are established through rigorous and transparent competitive solicitations conducted in accordance with public procurement guidelines to ensure our members stay in compliance.

Equalis Group is a Member-Driven organization that believes in the power of partnership: when we work together, we achieve more. Joining Equalis Group enables any Ohio political subdivision to legally access their Ohio JOC contracts. There are no costs, dues, or obligations to join Equalis Group. .

Equalis Group sourced their Ohio JOC (Job ordering contracting) program in full compliance with the guidelines prescribed in the Ohio Attorney General's [Opinion Letter 2019-028](#). The opinion clearly defines the required conditions for political subdivisions in Ohio to utilize an already-procured contract for construction services, including:

- The contract must relate to the repair, enlargement, improvement, or demolition of an already-existing building or structure, not new construction – our Ohio JOC program is explicitly targeted to already-existing buildings, not new construction.
- The contract must utilize per-unit or unit-based pricing – each of our Ohio JOC awarded contracts utilizes unit-based pricing.
- The competitive bidding process that resulted in the contract award must be conducted by a regional council of governments or one of its members – Ohio-based Cooperative Council of Governments issued the request for proposals and awarded the contracts.

I did speak with Keith McDevitt, Area VP for Equalis Group on April 14, 2022 and discussed their organization, which started and is still maintained as a COG (Council of Governments), procedures for bidding, and working with members who are looking for similar products and services which Equalis Group could provide. I was satisfied that the company does follow bidding guidelines and is not just a discount program.

A quick glance at a few of the contracts awarded by Equalis group include the following companies: Cummins, Fastenal, Grainger, Johnson Controls, Sharp, SportMaster, and WB Mason.

Please let me know if you have any questions or would like further explanations.

Thank You.

AN ORDINANCE AMENDING SECTION 145.01(A), “DEPARTMENT ESTABLISHED; PERSONNEL” OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO MODIFYING THE MEMBERSHIP OF THE POLICE DEPARTMENT; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Police Chief and the Mayor with the support and recommendation of Council wish to amend BCO Section 145.01 to reflect a change in in the membership of the Police Department; and

WHEREAS, the Beachwood Police Department Table of Organization should also be accordingly amended.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Existing Section 145.01(a), “Department Established; Personnel,” of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, as follows (new language in **bold**):

“145.01 DEPARTMENT ESTABLISHED; PERSONNEL”

(a) A Police Department is hereby established **and may be organized and composed of the following officers, patrol officers and other members. Sworn personnel shall not exceed 53. Any appointments to such classifications and vacancies therein are not automatic and will be filled based on the personnel budgeted and at the sole discretion of the Mayor. Whenever a vacancy occurs in any rank, whether voluntary or involuntary, it is within the sole discretion of the Mayor to fill or not fill that vacancy. At maximum,** the membership of the department shall not exceed:

- (1) A Police Chief
- (2) One Deputy Chief
- (3) Six Lieutenants – **will be reduced to 4 over time**
- (4) ~~Five~~ **Eight Sergeants**
- (5) Thirty-seven full-time patrol officers

In the event **the Mayor chooses to fill** ~~of~~ a vacancy, the Mayor shall fill the position in accordance with Article IV, Section 3, of the Charter. The Mayor is hereby authorized to employ such number of personnel as is necessary to meet the needs of the Department, but not to exceed one Clerk of Court, one Assistant Clerk of Court, fifteen Dispatcher Clerks, two Administrative Assistants, one Assistant Jail Administrator, part-time Police Patrol Officers, correction officers and school guards as required.

* * * *

Section 2: The Beachwood Police Department Table of Organization is hereby amended effective immediately upon passage and approval by the Mayor.

Section 3: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 4: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

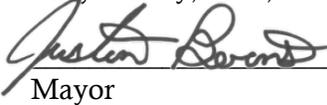
Section 5: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that the employment provided herein is needed for the proper operation of an essential department of the City government; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 16th day of May, 2022, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 17th day of May, 2022.


Clerk

Approval: I have approved this legislation this 17th day of May, 2022, and filed it with the Clerk.


Mayor

AN ORDINANCE AMENDING SECTION 648.04 TITLED “DISORDERLY CONDUCT; UNREASONABLE NOISES”, OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, a request has been made for an amendment to the City of Beachwood, Ohio Noise Ordinance; and

WHEREAS, this Council desires to adopt the recommended amendments to 648.04.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: Existing Section 648.04 titled “Disorderly Conduct; Unreasonable Noises”, of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, as follows new language is in **bold**:

648.04 DISORDERLY CONDUCT; UNREASONABLE NOISES.

“ (a) No person shall recklessly cause inconvenience, annoyance or alarm to another, by doing any of the following:

(1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;

(2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person in such manner as to provoke or encourage a violent response.

(3) Insulting, taunting or challenging another under circumstances in which such conduct is likely to provoke a violent response;

(4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others and by any act which serves no lawful and reasonable purpose of the offender;

(5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property by any act which serves no lawful and reasonable purpose of the offender.

(b) No person, while voluntarily intoxicated shall do either of the following:

(1) In a public place or in the presence of two or more persons engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;

(2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe such person is voluntarily intoxicated for purposes of subsection (b) hereof.

(ORC 2917.11; Adopting Ordinance)

(e) The following acts, among others, are hereby declared to be unreasonable noises in violation of subsection (a)(2) hereof, but such enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn, bell or other signal or warning device on any automobile, motorcycle, bus or other vehicle, except as a danger or warning signal; however, any such sounding

of horn, bell or other signal or warning device as a danger or warning signal shall not be unreasonably loud or harsh or continued for any unnecessary period of time;

(2) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise;

(3) The unreasonable discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine without effective and efficient muffling and reduction of noise;

(4) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced; and

(5) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or game or display of merchandise, except where a specific permit therefor has been granted by the Chief of Police. (1964 Code §73.03)

(f) No person shall engage in construction or other activities, such as hammering, pounding, grinding or grading, so as to create objectionable or unreasonable noise or a disturbance to neighbors or other residents in the City, between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday and 7:00 p.m. to 9:00 a.m. on Saturdays, Sundays and official holidays. In case of an emergency, such as a utility outage, significant hardship, or to provide for safe and efficient flow of motor vehicle traffic, the Safety Director may authorize work during prohibited hours.

(g) In case of emergency or serious illness, the Chief of Police may order the temporary cessation of a noisy or disturbing operation or construction work at any time, if necessary for the preservation of the health or safety of the residents of the City.

(h) No person shall play any radio, music player, television, audio system or musical instrument in such a manner or at such volume as to annoy or disturb the quiet, comfort or repose of neighboring inhabitants or at a volume which is plainly audible to persons other than those who are in the room in which such device or instrument is played and who are voluntary listeners hereto.

(i) No person shall play any radio, music player or audio system in a motor vehicle at such volume as to disturb the quiet, comfort or repose of other persons or at a volume which is plainly audible to persons other than the occupants of said vehicle.

(j) In addition to the specific prohibitions outlined in this chapter, no person shall unreasonably make, continue, or cause to be made, continued or permitted, any noise disturbance. This section should not apply to noncommercial public speaking and public assembly activities conducted on any public space or right-of-way.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 21st day of June, 2022, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 22nd day of June, 2022.

Whitney M. Crook

Clerk

Approval: I have approved this legislation this 22nd day of June, 2022, and filed it with the Clerk.

Justin Davens

Mayor

INTRODUCED BY:

ORDINANCE NO. 2022-106

AN ORDINANCE AMENDING BCO SECTION 121.09 (d)(1), TITLED “ADVERTISING FOR BIDS; AWARDING CONTRACTS”; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Charter of the City of Beachwood Article III, Section 5(3)(E) provides that Council shall provide a procedure for the awarding of contracts; and

WHEREAS, the Finance Director has requested to Amend BCO Section 121.09, titled “Advertising for Bids; Awarding Contracts” to include the Interlocal Purchasing System (TIPS Purchasing Cooperative); and

WHEREAS, TIPS is a National Cooperative Purchasing Program that establishes and provides nationally leveraged and competitively solicited purchasing contracts as authorized by each entity’s jurisdictional legal requirements.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Section 121.09, titled “Advertising for Bids; Awarding Contracts”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. New language is in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 6th day of September, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 7th day of September, 2022.


Clerk

Approval: I have approved this legislation this 7th day of September, 2022, and filed it with the Clerk.


Mayor

121.09 ADVERTISING FOR BIDS; AWARDING CONTRACTS.

(d) (1) The City may participate in contracts authorized by the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, other State of Ohio cooperative purchasing programs **and the Interlocal Purchasing System (TIPS Purchasing Cooperative)** in order for the City to purchase equipment, materials, supplies and other articles that have been competitively bid in accordance with participating cooperative purchasing programs.

(2) The Mayor is authorized to agree, in the name of the City, to be bound by all terms and conditions that the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, **the Interlocal Purchasing System (TIPS Purchasing Cooperative)**, and other State of Ohio cooperative purchasing programs prescribes.

(3) The Mayor is authorized to agree, in the name of the City, to directly pay any vendor, under contract with the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, **the Interlocal Purchasing System (TIPS Purchasing Cooperative)** and other State of Ohio cooperative purchasing programs in which the City participates, for those items that the City receives pursuant to the contract.

AN ORDINANCE AMENDING SECTION 1391.01, "CERTIFICATE OF RENTAL OCCUPANCY" OF THE CODIFIED ORDINANCES OF THE CITY OF BEACHWOOD, OHIO; CREATING SECTION 1391.011, "CERTIFICATE OF SHORT-TERM RENTAL OCCUPANCY"; AMENDING SECTION 1391.02, "FREQUENCY AND SCHEDULE OF INSPECTION,"; CREATING SECTION 1391.022, "FREQUENCY AND SCHEDULE OF INSPECTION FOR SHORT TERM RENTALS,"; CREATING SECTION 1329.14, "FEES FOR CERTIFICATE OF RENTAL OCCUPANCY AND CERTIFICATE OF SHORT-TERM RENTAL OCCUPANCY,"; AMENDING 1393.30, "FREQUENCY AND SCHEDULE OF INSPECTIONS,"; AND AMENDING SECTION 1393.32 "NONCOMPLIANCE WITH NOTICE; REMEDIES; CORRECTIONS REQUIRED PRIOR TO SALE, RENTAL OR LEASE"; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the creation of short-term rental companies, organizations, and businesses all over the world and in the City has led to a creation of a business model that allows individuals within the United States and the world to connect with short term renters through the use of websites, applications, and other models; and

WHEREAS, such a business model allows for increased income into the City, as well as an increase in tourism, the showcasing of residential areas of the City not commonly visited by guests, and the ability for residents to afford sustainable housing through renting properties; and

WHEREAS, the City and Council have received complaints, disputes, and issues regarding the use of residential rental units within the city that threaten the wellbeing, safety, and protection of the residents and property within the city; and

WHEREAS, Council desires to allow property owners to use their properties as they see fit in a manner that promotes public safety and the well-being of the residents of this City; and

WHEREAS, Council recognizes the need for regulation of residential rental units within the city in order to provide an effective, efficient, and timely system of communication and regulation regarding fire and safety, code enforcement, and law enforcement for the health, safety, and welfare of all residents of the City.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio that:

Section 1: Existing Section 1391.01 "CERTIFICATE OF RENTAL OCCUPANCY", of the Codified Ordinances of the City of Beachwood, Ohio, is hereby amended to read and provide, in its entirety, as follows with new language is in bold:

a) (1) As used in this Chapter, "rental unit" means any single-family residential rental dwelling where either of the following conditions exists:

A. Consideration in the form of money or other valuable consideration is being paid for occupying such units **30 or more consecutive calendar days**; or

B. A person other than the fee simple owner of the property or his/her family as defined herein is occupying such unit, whether or not such person is paying consideration **for 30 or more consecutive calendar days**.

(2) As used in this chapter, “agent” means any person or persons eighteen years or older authorized by an owner to act on the owner’s behalf.

(3) The term "rental unit" does not include a room for rent in a hotel or motel as specified in Chapter 1131 of the Zoning Code.

(4) The term "family" for the purposes of this Chapter shall have the same meaning as in Section 1351.08(i).

(5) The term "single-family residential rental dwelling" for the purposes of this Chapter shall include a single-family structure.

(b) No person shall occupy, and no owner or resident agent shall permit a person to occupy, a rental unit, unless the Building Commissioner has issued a Certificate of Rental Occupancy for such single-family residential rental dwelling structure, which certificate has not expired, been revoked or otherwise become null and void.

(c) Every owner or operator of a single-family residential rental dwelling that is a current rental unit, as defined in this Section, shall submit an application for a Certificate of Rental Occupancy. An application to renew a Certificate is required each year the rental property is occupied as a “rental unit”. The application shall be submitted with a ~~Five Hundred Dollar (\$500.00)~~ fee **as established by City Council** and shall be received by the City of Beachwood Building Department no later than the commencement of occupancy for a new rental unit and no later than the date one calendar year after the issuance date of the prior Certificate of Rental Occupancy for the renewal of an existing Certificate of Rental Occupancy. Upon any change in occupancy of a rental unit within the calendar year, a new application must be updated with current tenant information and returned to the City of Beachwood Building Department.

(1) Application for a Certificate of Rental Occupancy shall be made by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner. Such information shall include, but need not be limited to, the following, as applicable:

- A. The name, address and telephone number of the owner of the property;
- B. The address of the property;
- C. The current name, address, business and/or home telephone number of the persons who, since the last application, have been occupying the single family residential rental dwelling, and the address or other identification of the single family residential rental dwelling which they occupy;
- D. Whenever an address is required herein, a post office box number may not be provided as the sole address; **and**
- ~~E. The familial relationship, if any, among the persons listed in subsection (c)(1)C. hereof;~~
- ~~F. The name of the head of the household of each single family residential rental unit;~~
- ~~G. A statement that the information is necessary for tax purposes; and~~
- E. Such other information as may be requested on a voluntary basis.

(2) The Owner, Manager, or Agent shall be present at appointment-based annual inspections of both the interior and exterior of the property and rental unit. Failure of attendance from the Owner, Manager, or Agent will result in a fee as established by City Council. Repeated failure of

attendance may result in the termination of the current Certificate of Rental Occupancy or denial of recertification of the property.

(3) The Building Commissioner shall issue a Certificate of Rental Occupancy for a structure or premises if it is found to be in substantial compliance with the provisions of the Fire, Health, Zoning, and Building Codes and all other laws, ordinances, rules and regulations applicable thereto.

(4) The Certificate of Rental Occupancy shall be valid for one (1) year from issuance date of said single family residential rental dwelling Certificate of Rental Occupancy at which time it will expire. At that time a completed new application and a non-refundable fee of ~~Five Hundred Dollars (\$500.00)~~ **as established by City Council** shall be submitted.

(5) The Building Commissioner may deny an application for a Certificate of Rental Occupancy or revoke a Certificate of Rental Occupancy if any false statement is made by the applicant in connection with the issuance of such Certificate, for substantial noncompliance of a structure or its use with the requirements of the Fire, Health, Zoning, or Building Codes, or if the owner, agent or person in charge of a structure fails to comply with any applicable provision of the Fire, Health, Zoning, or Building Codes.

(d) (1) Every application for a Certificate of Rental Occupancy or a renewal thereof shall be accompanied by a nonrefundable fee **as established by City Council**. The fee for reinstatement of a Certificate of Rental Occupancy after it has been revoked **shall also be as established by City Council**.

(2) An application is considered complete only when all information required on the form is accurately, legibly and fully provided and when the fee is paid.

(3) The fee for an **untimely** application for a Certificate of Rental Occupancy submitted after the rental unit is found to be occupied shall be **as established by City Council**. An application is considered submitted only when it is complete and no cause exists to deny the application, as defined in this Section. The fee for an application that was denied and is re-submitted shall be **as established by City Council**. If no application for a Certificate is submitted when required by this Chapter by the end of the calendar year for which the Certificate is required, the Building Commissioner shall charge the owner or operator a fee **as established by City Council**.

(4) If the owner or operator fails to pay the fee for a Certificate within the calendar year for which the Certificate is required to be obtained, the Building Commissioner shall report the delinquency to the Director of Finance, who shall report the same to Council, which may thereupon assess the cost, together with the expense of assessing and collecting the same, upon the property for which the Certificate is required, and cause the assessment to be certified to the County Auditor for collection.

(5) Every applicant shall provide proof of insurance pertaining to the rental unit and name the City of Beachwood as an additionally named insured on this policy. A Certificate of Rental Occupancy for rental units shall not be issued to applicants who do not provide proof of insurance and name the City of Beachwood as an additionally named insured on the pertinent policy

(e) The City shall reinstate a Certificate of Rental Occupancy that has been revoked when the owner has done all of the following:

(1) Submitted a new application for a Certificate as required in this Section;

(2) Paid the appropriate application fee and the reinstatement fee, **and any fines accrued;**

(3) Successfully completed any procedure required by the Building Commissioner, under the rules and regulations of the Building Department established as permitted in this Chapter, by which the owner has demonstrated that the property has been brought into substantial compliance with the City Codes that were the basis of the revocation.

Section 2: Creating Section 1391.011 "CERTIFICATE OF SHORT-TERM RENTAL OCCUPANCY", of the Codified Ordinances of the City of Beachwood, Ohio, with the language as follows in bold:

a) (1) As used in this chapter "short-term rental unit" means a dwelling unit, a portion of a dwelling unit, or any portion of property that is offered or held out to the public for rent on a hosting website, internet or mobile application, or any other means in which short term rentals are listed, advertised, solicited, or otherwise held out for rent through monetary or other means for a period of less than 30 consecutive calendar days.

(2) As used in this chapter, "agent" means any person or persons eighteen years or older authorized by an owner to act on the owner's behalf.

(3) The term "short term rental unit" does not include a room for rent in a hotel or motel as specified in Chapter 1131 of the Zoning Code.

(4) The term "short term rental unit" does not include residences with "Roomers" as defined in Section 1113.02(d) of the Zoning Code.

(5) The term "family" for the purposes of this Chapter shall have the same meaning as in Section 1351.08(i).

(6) The term "single-family residential rental dwelling" for the purposes of this Chapter shall include a single-family structure.

(b) No person shall occupy, and no owner or resident agent shall permit a person to occupy, a short-term rental unit, unless the Building Commissioner has issued a Certificate of Short-Term Rental Occupancy for such single-family residential rental dwelling structure, which certificate has not expired, been revoked or otherwise become null and void.

(c) Every owner or operator of a residential rental dwelling that is a current short-term rental unit, as defined in this Section, shall submit an application for a Certificate of Short-Term Rental Occupancy. An application to renew a Certificate is required each year the rental property is occupied as a "short term rental unit." The application shall be submitted with a fee as established by City Council and shall be received by the City of Beachwood Building Department no later than the commencement of occupancy for a new short-term rental unit and no later than the date one calendar year after the issuance date of the prior Certificate of Short-Term Rental Occupancy for the renewal of an existing Certificate of Short-Term Rental Occupancy. Upon any change in occupancy of a short-term rental unit within the calendar year, a new application must be updated with current tenant information and returned to the City of Beachwood Building Department.

(1) Application for a Certificate of Short-Term Rental Occupancy shall be made by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied

by the Building Commissioner. Such information shall include, but need not be limited to, the following, as applicable:

A. The name, address and telephone number of the owner of the property;

B. The address of the property;

C. The current name, address, business and/or home telephone number of the persons who, since the last application, have been occupying the single family residential rental dwelling, and the address or other identification of the single family residential rental dwelling which they occupy;

D. Whenever an address is required herein, a post office box number may not be provided as the sole address; and

E. Such other information as may be requested on a voluntary basis.

(2) The Owner, Manager, or Agent shall be present at appointment-based quarterly (trimestral) inspections including one (1) interior inspection and four (4) exterior inspections of the property and short-term rental unit. Failure of attendance from the Owner, Manager, or Agent will result in a fee as established by City Council. Repeated failure of attendance may result in the termination of the current Certificate of Short-Term Rental Occupancy or denial of recertification of the property.

(3) The Building Commissioner shall issue a Certificate of Short-Term Rental Occupancy for a structure or premises if it is found to be in substantial compliance with the provisions of the Fire, Health, Zoning, and Building Codes and all other laws, ordinances, rules and regulations applicable thereto.

(4) Any Owner who cannot respond to concerns of habitability, safety, functionality, or operation of a short-term rental unit within a reasonable period of time must retain and keep, at all times, an Agent or Manager responsible for the management and oversight of the property. The name, address, and telephone number of this individual or individual(s) responsible shall be provided to the Building Commissioner.

(5) The Certificate of Short-Term Rental Occupancy shall be valid for one (1) year from issuance date at which time it will expire. At that time a completed new application and a non-refundable fee as established by City Council for short-term rental units shall be submitted.

(6) The Building Commissioner may deny an application for a Certificate of Short-Term Rental Occupancy or revoke a Certificate of Short-Term Rental Occupancy if any false statement is made by the applicant in connection with the issuance of such Certificate, for substantial noncompliance of a structure or its use with the requirements of the Fire, Health, Zoning, or Building Codes, or if the owner, agent or person in charge of a structure fails to comply with any applicable provision of the Fire, Health, Zoning, or Building Codes or if the Owner, Manager, or Agent has consecutively failed, neglected, or refused to comply with a notice to correct a nuisance or attend the inspections of the property.

(e) (1) Every application for a Certificate of Short-Term Rental Occupancy or a renewal thereof shall be accompanied by a nonrefundable fee as established by City Council. The fee for

reinstatement of a Certificate of Short-Term Rental Occupancy after it has been revoked is also that as established by City Council.

(2) An application is considered complete only when all information required on the form is accurately, legibly and fully provided and when the fee is paid.

(3) The fee for an untimely application for a Certificate of Short-Term Rental Occupancy submitted after the short-term rental unit is found to be occupied shall be as established by City Council. An application is considered submitted only when it is complete and no cause exists to deny the application, as defined in this Section. The fee for an application that was denied and is re-submitted is as established by City Council. If no application for a Certificate is submitted when required by this Chapter by the end of the calendar year for which the Certificate is required, the Building Commissioner shall charge the owner or operator a fee as established by City Council.

(4) If the owner or operator fails to pay the fee for a Certificate within the calendar year for which the Certificate is required to be obtained, the Building Commissioner shall report the delinquency to the Director of Finance, who shall report the same to Council, which may thereupon assess the cost, together with the expense of assessing and collecting the same, upon the property for which the Certificate is required, and cause the assessment to be certified to the County Auditor for collection.

(5) Every applicant shall provide proof of insurance pertaining to the short-term rental unit and name the City of Beachwood as an additionally named insured on this policy. A Certificate of Short-Term Rental Occupancy for short-term rental units shall not be issued to applicants who do not provide proof of insurance and name the City of Beachwood as an additionally named insured on the pertinent policy

(f) The City shall reinstate a Certificate of Short-Term Rental Occupancy that has been revoked when the owner has done all of the following:

(1) Submitted a new application for a Certificate as required in this Section;

(2) Paid the appropriate application fee and the reinstatement fee, and any fines accrued;

(3) Successfully completed any procedure required by the Building Commissioner, under the rules and regulations of the Building Department established as permitted in this Chapter, by which the owner has demonstrated that the property has been brought into substantial compliance with the City Codes that were the basis of the revocation.

Section 3: Existing Section 1391.02 "FREQUENCY AND SCHEDULE OF INSPECTION", of the Codified Ordinances of the City of Beachwood, Ohio, is hereby amended to read and provide, in its entirety, as follows with new language in bold:

The Building Commissioner is hereby directed to conduct an interior and exterior inspection of all single family residential rental **units**, as defined in Section 1391.01, in single-family dwelling structures at least once every year according to a schedule established by him/her. The Building Commissioner is further directed to conduct an interior and exterior inspection of a single family residential rental dwelling upon any change in occupancy of the rental unit. Pursuant to such schedule, the Building Commissioner shall notify the owner of any single family residential dwelling, as defined in Section 1391.01 to be inspected, or his agent, that arrangements must be made with the Building

Department for an inspection appointment within thirty (30) days of such notice. If the owner or agent, or an occupant, refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Building Commissioner or his designated representative shall not make such inspection without first obtaining an administrative search warrant in accordance with the provisions set forth below. If a scheduled inspection is cancelled by the owner, agent or occupant upon less than twenty-four (24) hour notice, a fee of ~~One Hundred Dollars (\$100.00)~~ shall be charged **as established by City Council** shall be charged, which fee must be paid before any re-inspection will be scheduled.

(a) If the owner or agent, or an occupant thereof refuses or does not consent to the proposed inspection, the Building Commissioner may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the refusal or non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified in this chapter and Chapter 1393. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plain view violations;
- (5) Violations apparent from City records;
- (6) Property deterioration;
- (7) Age of property;
- (8) Nature of alleged violation;
- (9) Condition of similar properties in the area;
- (10) Documented violations on similar properties in the area;
- (11) Passage of time since last inspection; and
- (12) Previous violations on the property.

(b) If a warrant is issued, no owner or agent, or an occupant thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the Building Commissioner or his/her duly authorized designee for the purpose of conducting a rental inspection and examination pursuant to this chapter and Chapter 1393 and consistent with the terms of the warrant. If the court declines to issue a warrant, or if no warrant is sought, the rental inspection shall not take place and no Certificate of Rental Occupancy shall be issued. No criminal penalty, or any penalty or fine under this chapter or Chapter 1393 shall attach, nor shall any Certificate of Rental Occupancy be denied, solely by reason of the owner's, agent's or occupant's refusal to consent to a full inspection.

(c) A Certificate of Rental Occupancy signed by the Building Commissioner shall be evidence that the premises complies with the requirements of this chapter and Chapter 1393 and all other applicable ordinances. If the inspection disclosed aspects of the property not in compliance, the Certificate of Rental Occupancy shall not be issued until the premises **are** brought into compliance with this chapter and Chapter 1393 and all other applicable ordinances.

If such structure as described above is determined to be occupied by a tenant, the Building Commissioner shall provide notice to such tenant of the rejection of the application for the issuance or renewal of a Certificate of Rental Occupancy. Notice shall be by mail, hand delivery, or posting on the structure. Notwithstanding the requirement of notice provided herein, failure of the Building

Commissioner to notify a tenant shall not preclude the enforcement of any provision of this chapter or Chapter 1393.

Section 4: Creating Section 1391.022 “FREQUENCY AND SCHEDULE OF INSPECTION FOR SHORT-TERM RENTALS” of the Codified Ordinances of the City of Beachwood, Ohio, with the language as follows:

The Building Commissioner is hereby directed to conduct one interior and four exterior inspections of all single family residential short-term rental units, as defined in Section 1391.011, in single-family dwelling structures according to a schedule established by him/her. Pursuant to such schedule, the Building Commissioner shall notify the owner of any single-family residential dwelling, as defined in Section 1391.011, to be inspected, or his agent, that arrangements must be made with the Building Department for an inspection appointment within thirty (30) days of such notice. If the owner or agent, or an occupant, refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Building Commissioner or his designated representative shall not make such inspection without first obtaining an administrative search warrant in accordance with the provisions set forth below. If a scheduled inspection is cancelled by the owner, agent or occupant upon less than twenty-four (24) hour notice, a fee as established by City Council shall be charged, which fee must be paid before any re-inspection will be scheduled.

(a) If the owner or agent, or an occupant thereof refuses or does not consent to the proposed inspection(s), the Building Commissioner may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the refusal or non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the code provisions identified in this chapter and Chapter 1393. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plain view violations;
- (5) Violations apparent from City records;
- (6) Property deterioration;
- (7) Age of property;
- (8) Nature of alleged violation;
- (9) Condition of similar properties in the area;
- (10) Documented violations on similar properties in the area;
- (11) Passage of time since last inspection; and
- (12) Previous violations on the property.

(b) If a warrant is issued, no owner or agent, or an occupant thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the Building Commissioner or his/her duly authorized designee for the purpose of conducting a rental inspection and

examination pursuant to this chapter and Chapter 1393 and consistent with the terms of the warrant. If the court declines to issue a warrant, or if no warrant is sought, the rental inspection shall not take place and no Certificate of Short-Term Rental Occupancy shall be issued. No criminal penalty, or any penalty or fine under this chapter or Chapter 1393 shall attach, nor shall any Certificate of Short-Term Rental Occupancy be denied, solely by reason of the owner’s, agent’s or occupant’s refusal to consent to a full inspection.

(c) A Certificate of Short-Term Rental Occupancy signed by the Building Commissioner shall be evidence that the premises complies with the requirements of this chapter and Chapter 1393 and all other applicable ordinances. If the inspection disclosed aspects of the property not in compliance, the Certificate of Short-Term Rental Occupancy shall not be issued until the premises are brought into compliance with this chapter and Chapter 1393 and all other applicable ordinances.

If such structure as described above is determined to be occupied by a tenant, the Building Commissioner shall provide notice to such tenant of the rejection of the application for the issuance or renewal of a Certificate of Short-Term Rental Occupancy. Notice shall be by mail, hand delivery, or posting on the structure. Notwithstanding the requirement of notice provided herein, failure of the Building Commissioner to notify a tenant shall not preclude the enforcement of any provision of this chapter or Chapter 1393.

Section 5: Creating Section 1329.14 “FEES FOR CERTIFICATE OF RENTAL OCCUPANCY AND CERTIFICATE OF SHORT-TERM RENTAL OCCUPANCY,” of the Codified Ordinances of the City of Beachwood, Ohio, with the new language as follows in bold:

In addition to any fee(s) provided in Chapter 1329, the following fee(s) shall be collected by the Building Commissioner:

(a)		Application for Certificate of Rental Occupancy; Renewal; Reinstatement; Resubmission	\$500.00
	(1)	Untimely Application for Certificate of Rental Occupancy	\$600.00
(b)		Application for Certificate of Short-Term Rental Occupancy; Renewal; Reinstatement; Resubmission	\$1,000.00
	(2)	Untimely Application for Certificate of Short-Term Rental Occupancy	\$1,100.00
(c)		Failure to Timely Notify of Cancellation or Appear at Scheduled Inspection	\$250.00

Section 6: Existing Section 1393.30 “FREQUENCY AND SCHEDULE OF INSPECTIONS”, of the Codified Ordinances of the City of Beachwood, Ohio, is hereby amended to read and provide, in its entirety, as follows with new language in bold:

(1) The Building Commissioner is hereby directed to conduct inspections of **all single family residential rental units as defined in Section 1391.01** at least once every year according to a schedule established by his/her to determine compliance with this Chapter 1393. The Building Commissioner is further directed to conduct such inspections upon any change in occupancy of the rental unit. Pursuant to such schedule, the Building Commissioner shall notify the owner/agent of the rental unit to be inspected that arrangements must be made with the Building Department for an inspection appointment within thirty days of such notice. If the owner/agent or occupant refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Building Commissioner or his/her designated representative shall not make such inspection without first

obtaining an administrative search warrant in accordance with Section 1391.02. If a scheduled inspection is cancelled by the owner/agent or occupant upon less than twenty-four hours notice, a fee of ~~One Hundred Dollars (\$100)~~ **as established by City Council** shall be charged, which fee must be paid before any re-inspection is scheduled.

(2) The Building Commissioner is hereby directed to conduct one interior and four exterior inspections of all single family residential short-term rental units as defined in Section 1391.011 according to a schedule established by his/her to determine compliance with this Chapter 1393. The Building Commissioner is further directed to conduct such inspections upon any change in occupancy of the short-term rental unit. Pursuant to such schedule, the Building Commissioner shall notify the owner/agent of the short-term rental unit to be inspected that arrangements must be made with the Building Department for an inspection appointment within thirty days of such notice. If the owner/agent or occupant refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Building Commissioner or his/her designated representative shall not make such inspection without first obtaining an administrative search warrant in accordance with Section 1391.022. If a scheduled inspection is cancelled by the owner/agent or occupant upon less than twenty-four hours notice, a fee as established by City Council shall be charged, which fee must be paid before any re-inspection is scheduled.

Section 7: Existing Section 1393.32 “NONCOMPLIANCE WITH NOTICE; REMEDIES; CORRECTIONS REQUIRED PRIOR TO SALE, RENTAL OR LEASE; **OPERATION WITHOUT A PERMIT**”, of the Codified Ordinances of the City of Beachwood, Ohio, be and the same is hereby amended to read and provide, in its entirety, with the new language in title above and as follows in bold:

(a) Whenever the owner/agent of a rental unit **as defined in Section 1391.01, or short-term rental unit as defined in Section 1391.011**, fails, neglects, or refuses to comply with any notice of the Building Commissioner, the Building Commissioner may either issue a notice to vacate within such time as is stated in such notice, but which shall not be less than fifteen days, except in cases of emergency, or he/she may advise the Director of Law of the circumstances and request the Director to institute an appropriate action at law to compel compliance, or both.

(b) If the premise or structure of a rental unit or short-term rental unit is found or declared to be a nuisance, the owner or operator’s permit shall be revoked for a minimum period of one year (365 days) or longer at the discretion of the Building Commissioner if found to be a repeat offender.

(c) Whenever the owner/agent of a short-term rental unit fails, neglects, or refuses to comply with a notice to vacate or correct a nuisance, the Building Commissioner may elect to include such failures in consideration for not recertifying the property.

(d) Whenever the owner/agent of a rental unit **or short-term rental unit** fails, neglects, or refuses to comply with a notice to demolish any structure, or a part thereof, or a secondary or appurtenant structure, and when such structure is determined by the Building Commissioner to constitute a public nuisance in that it is dangerous or injurious to the public health, safety, or welfare, or built without a permit and/or built in violation of any law, the Building Commissioner may request the Director of Law to institute legal proceedings or to take such other action as may be necessary to abate the nuisance or violation.

(e) The owner of any such property to which such an order or notice to repair, improve, remove, demolish or vacate has been issued shall not sell, rent, or lease such property, or enter into an agreement to sell, rent or lease such property, unless all violations cited against such property have

been corrected and unless written approval of such corrections has been received by the property owner from the Building Commissioner.

Section 8: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 9: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 10: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 3rd day of October, 2022, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 4th day of October, 2022.



Clerk

Approval: I have approved this legislation this and filed it with the Clerk.



Mayor

AN ORDINANCE AMENDING BCO CHAPTER 1003 TITLED “ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL”; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the City Engineer and the Environmental Manager have requested to Amend BCO Chapter 1003, titled “Illicit Discharge and Illegal Connection Control” to include changes to the City of Beachwood Stormwater Management program; and

WHEREAS, these changes were reviewed and recommended by the Stormwater Commission to Council for approval.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Chapter 1003, titled “Illicit Discharge and Illegal Connection Control”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. Changes are in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

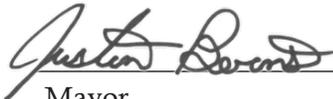
WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 3rd day of October, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 4th day of October, 2022.



Clerk

Approval: I have approved this legislation this 3rd day of October, 2022, and filed it with the Clerk.



Mayor

CHAPTER 1003 Illicit Discharge and Illegal Connection Control

- 1003.01 Purpose and intent.
- 1003.02 Applicability.
- 1003.03 Definitions.
- 1003.04 Disclaimer of Liability.
- 1003.05 Conflicts, severability, nuisances and responsibility.
- 1003.06 Responsibility and authority.
- 1003.07 Discharge and connection prohibitions.
- 1003.08 Monitoring of illicit discharges and illegal connections.
- 1003.09 Enforcement.

CROSS REFERENCES

- Riparian and wetland setbacks - see P. & Z. Ch. 1001
- Erosion and sediment control - see P. & Z. Ch. 1005
- Comprehensive stormwater management - see P. & Z. Ch. 1007

1003.01 PURPOSE AND INTENT

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of Illicit Discharges to the Municipal Separate Storm Sewer System^[LJ1] (MS4). This regulation establishes methods for controlling the introduction of Pollutants into the ~~Municipal Storm Sewer System~~^{MS4} in order to comply with requirements of the National Pollutant Discharge Elimination System "NPDES" permit process as required by the Ohio Environmental Protection Agency "Ohio EPA".

It is the intent of this regulation to prohibit Illicit Discharges and Illegal Connections to the City's ~~Municipal Storm Sewer System~~^{MS4} and to establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

1003.02 APPLICABILITY

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the Municipal Separate Storm Sewer System and/or within the City's jurisdictional land area^[LJ2] except for those discharges generated by the activities detailed in Section 1003.06 hereof.

1003.03 DEFINITIONS

The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- (a) Best Management Practices 'BMP': means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- (b) Community: means the community of Beachwood, its designated representatives, boards, or commissions.

~~(b)~~(c) Engineer: The City Engineer and or the City Engineer's designee, who shall work under and in coordination with the City Engineer.

~~(d)~~ Floatable Material: In general, this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products. [LJ3]

~~(c)~~(e) Hazardous Material: means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

~~(d)~~(f) Illicit Discharge: as defined at 40 C.F.R. 122.26 (b)(2) [LJ4] means any discharge to a ~~Municipal Storm Sewer System~~MS4 that is not composed entirely of storm water, except for those discharges made pursuant to an NPDES permit or noted in Section 1003.06 of this regulation.

~~(e)~~(g) Illegal Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an Illicit Discharge to enter the ~~Municipal Storm Sewer System~~MS4.

~~(f)~~(h) Municipal Storm Sewer System: means all of the various facilities and systems used by the City for collecting and/or conveying storm water which includes drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm sewers.

~~(g)~~(i) Off-Lot Discharging Home Sewage Treatment System: means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

~~(h)~~(j) Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.

~~(k)~~ Pollutant: means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, Hazardous Materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

~~(i)~~(l) Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

~~(j)~~(m) Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions

1003.04 DISCLAIMER LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

1003.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

- (a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.
- (b) If any provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom. [LJ5]

1003.06 RESPONSIBILITY AND AUTHORITY

The Engineer [LJ6] shall administer, implement, and enforce the provisions of this regulation.

1003.07 DISCHARGE AND CONNECTION PROHIBITIONS

- (a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an Illicit Discharge into the Municipal Storm Sewer System MS4. The commencement, conduct, or continuance of any Illicit Discharge to the Municipal Storm Sewer System MS4 is prohibited except as described below until such time as they are determined by the City or Ohio EPA to be significant contributors of pollutants to the MS4 [LJ7]:
 - (1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined in 40 CFR §35.2005(20)) [LJ8]; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated /dibrominated/desalinated [LJ9] swimming pool discharges; street wash water; and discharges or flows from firefighting activities.
 - (2) Discharges authorized in writing by the Engineer as being necessary to protect public health and safety.
 - (3) Discharges from Off-Lot Discharging Home Sewage Treatment Systems permitted by the Cuyahoga County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-2902(6). These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Board of Health or until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for household sewage treatment systems existing prior to January 1, 2007. [LJ10]
- (b) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of Illegal Connections to the Municipal Storm Sewer System MS4 is prohibited. This prohibition expressly includes, without limitation, Illegal Connections made prior to the effective date of this regulation, regardless of whether the connection was permissible under law or practices applicable or prevailing

[L]11 at the time of connection. A person is considered to be in violation of this regulation if the person connects a line conveying Illicit Discharges to the ~~Municipal Storm Sewer System~~MS4, or allows such a connection to continue.

1003.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

- (a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The Engineer is hereby authorized to establish a program to detect and eliminate Illicit Discharges and Illegal Connections to the ~~Municipal Storm Sewer System~~MS4. This program shall include the mapping of the ~~Municipal Storm Sewer System~~MS4, including ~~Municipal Storm Sewer System~~MS4 Outfalls and home sewage treatment systems; the periodic inspection of storm water outfalls to the ~~Municipal Storm Sewer System~~MS4, and the periodic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of such periodic inspections.
- (b) Inspection of Residential, Commercial, Industrial, or Institutional Facilities.
- (1) The Engineer, or their designee, shall be permitted to enter and inspect facilities subject to this regulation as may be necessary to determine compliance. Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected shall be promptly removed by the facility's Owner/Operator at the request of the Engineer. Unreasonable delays in allowing the Engineer, or their designee, access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation. [L]12
 - (2) The Engineer shall have the right to require the facility Owner/Operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility Owner/Operator at the Owner/Operator's expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
 - (3) If the City is refused access to any part of the facility from which storm water is discharged, and the Engineer demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the City may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
 - (4) Costs associated with these inspections may be assessed against the facility Owner/Operator.

1003.09 ENFORCEMENT

- (a) It shall be unlawful for any Owner/Operator to violate any provision or fail to comply with any of the requirements of this regulation. When the Engineer finds that a person has violated a prohibition or failed to meet a requirement of this regulation, they may order compliance by written Notice of Violation. Such notice shall specify the violation and shall be hand delivered or sent by registered mail, to the Owner/Operator of the facility.
- (b) Such Notice of Violation may require:
- (1) The performance of monitoring, analyses, and reporting;

- (2) The elimination of Illicit Discharges or Illegal Connections;
 - (3) That violating discharges, practices, or operations cease and desist;
 - (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and/or
 - (5) The implementation of source control or treatment BMPs.
- (c) If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility Owner/Operator fail to take the necessary corrective action within the established deadline, a legal action for enforcement may be initiated.
- (d) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.
- (e) Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City shall schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent registered mail.
- (f) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to O.R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the City may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.
- [L13]

AN ORDINANCE AMENDING BCO CHAPTER 1005, TITLED “EROSION AND SEDIMENT CONTROL” AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the City Engineer and the Environmental Manager have requested to Amend BCO Chapter 1005, titled “Erosion and Sediment Control” to include changes to the City of Beachwood Stormwater Management program; and

WHEREAS, these changes were reviewed and recommended by the Stormwater Commission to Council for approval.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Chapter 1005, titled “Erosion and Sediment Control”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. Changes are in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

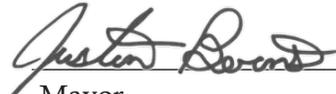
Attest:

I hereby certify this legislation was duly adopted on the 3rd day of October, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 4th day of October, 2022.


Clerk

Approval:

I have approved this legislation this 3rd day of October, 2022, and filed it with the Clerk.


Mayor

CHAPTER 1005 Erosion and Sediment Control

- 1005.01 Purpose and scope.
- 1005.02 Definitions.
- 1005.03 Disclaimer of liability.
- 1005.04 Conflicts, severability, nuisances and responsibility.
- 1005.05 Development of stormwater pollution prevention plans.
- 1005.06 Application procedures.
- 1005.07 Compliance with State and Federal regulations.
- 1005.08 Stormwater Pollution Prevention Plan (SWP3).
- 1005.09 Performance standards.
- 1005.10 Abbreviated Stormwater Pollution Prevention Plan (ABSWP3).
- 1005.11 Fees.
- 1005.12 Bond.
- 1005.13 Enforcement.
- 1005.14 Violations.
- 1005.15 Appeals.
- 1005.99 Penalty.

CROSS REFERENCES

- Riparian and wetland setbacks - see P. & Z. Ch. 1001
- Illicit discharge and illegal connection control - see P. & Z. Ch. 1003
- Comprehensive stormwater management - see P. & Z. Ch. 1007

1005.01 PURPOSE AND SCOPE

- (a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources, and will promote and maintain the health and safety of the citizens of the City:
- (b) This regulation will:
 - (1) Allow development while minimizing increases in erosion and sedimentation.
 - (2) Reduce water quality impacts to receiving water resources that may be caused by new development, redevelopment, grading, or clearing activities.
- (c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing.

1005.02 DEFINITIONS

The definitions contained in Ohio Environmental Protection Agency (“Ohio EPA”)’s Construction General Permit entitled “Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System” in effect at the time a permit is applied for under this chapter shall apply to this chapter, and the following definitions shall also apply:

For purpose of this regulation, the following terms shall have the meaning herein indicated:

- (a) **ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this regulation for sites disturbing four thousand (4,000) square feet to one (1) acre of land.
- (b) **ACRE:** A measurement of area equaling 43,560 square feet.
- (c) **ADMINISTRATOR:** The person or entity having the responsibility and duty of administering and ensuring compliance with this regulation.
- (d) **CITY:** Throughout this regulation, this shall refer to the City of Beachwood, its designated representatives, boards, or commissions.
- (e) **CONSTRUCTION ENTRANCE:** The permitted points of ingress and egress to development areas regulated under this regulation.
- (f) **CONSTRUCTION GENERAL PERMIT:** The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000005 and its successors).
- (g) **CRITICAL AREA:** Any area the disturbance of which would cause soil erosion and sediment runoff and damage to private properties, water courses, storm sewers or public lands due to topography, soil type, hydrology, or proximity to a water course. These areas include, but are not limited to, riparian areas, wetlands, and highly erodible soils.
- (h) **DEVELOPMENT AREA:** A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (i) **DISCHARGE:** The addition of any pollutant to surface waters of the state from a point source.
- (j) **DISTURBANCE:** Any clearing, grading, grubbing, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.
- (k) **DISTURBED AREA:** An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities such as grading, excavating, or filling.
- (l) **DRAINAGE:** (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (m) **DRAINAGE WAY:** A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.

- (n) ENGINEER: The City Engineer or the City Engineer's Designee, who shall work under and in coordination with the City Engineer.
- (o) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (p) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
- (q) GRADING: The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
- (r) GRUBBING: removing or grinding of roots, stumps and other unwanted material below existing grade.
- (s) IMPERVIOUS: That which does not allow infiltration.
- (t) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.
- (u) SUBDIVISIONS, MAJOR AND MINOR: See Ohio Administrative Code 711.001 for definition.
- (v) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Cuyahoga County Fiscal Officer.
- (w) PERCENT IMPERVIOUSNESS: The impervious area created divided by the total area of the project site.
- (x) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
- (y) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- (z) PRE-CONSTRUCTION MEETING: A meeting between the City and all principle parties, prior to the start of any construction, at a site that requires a Stormwater Pollution Prevention Plan.
- (aa) PRE-WINTER STABILIZATION MEETING: A meeting between the City and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that requires a Stormwater Pollution Prevention Plan.
- (bb) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

- (cc) **SEDIMENT:** The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.
- (dd) **SEDIMENTATION:** The deposition or settling of sediment.
- (ee) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, grubbing or stump removal that occurs during clearing or timber activities, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.
- (ff) **SOIL & WATER CONSERVATION DISTRICT:** An entity organized under Chapter 940 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Cuyahoga SWCD.
- (gg) **STABILIZATION:** The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
- (hh) **STORMWATER POLLUTION PREVENTION PLAN (SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.
- (ii) **STORMWATER:** Stormwater runoff, snow melt and surface runoff and drainage.
- (jj) **SURFACE OUTLET:** A dewatering device that only draws water from the surface of the water.
- (kk) **TOPSOIL:** The upper layer of the soil that is usually darker in color and richer in organic matter and nutrients than subsoil.
- (ll) **UNSTABLE SOILS:** A portion of land that is identified by the Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.
- (mm) **WATER RESOURCE Also SURFACE WATER OF THE STATE:** Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
- (nn) **WATERSHED:** The total drainage area contributing runoff to a single point.
- (oo) **WETLAND:** Those areas, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

1005.03 DISCLAIMER OF LIABILITY

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

1005.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

- (a) Where this regulation is in conflict with other provisions of law or ordinance or requirements in the Construction General Permit, the most restrictive provisions shall prevail.
- (b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.
- (e) The Engineer shall administer, implement, and enforce the provisions of this Chapter.

1005.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS

- (a) This regulation requires that a Storm Water Pollution Prevention Plan (SWP3) be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land. ~~A SWP3 shall be developed and implemented for all commercial and industrial site development.~~ [L1] The City shall require an Abbreviated SWP3 for activities disturbing four thousand square feet (4,000) to one (1) acre of land not associated with commercial or industrial development.
- (b) Activities disturbing less than four thousand (4,000) square feet of soil are not required to submit a SWP3, unless required by the City. These activities must comply with all other provisions of this regulation.

1005.06 APPLICATION PROCEDURES

- (a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the Engineer as follows:
 - (1) For subdivisions: After the approval of the preliminary Site Development Plan and with submittal of the final Site Development Plan.

- (2) For other construction projects: Before issuance of a building or zoning permit by the Building Commissioner.
 - (3) For general clearing projects: Prior to issuance of a ***miscellaneous permit*** by the Building Commissioner.
- (b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the to the Engineer as follows:
- (1) For single-family home construction: Before issuance of a zoning permit or building permit by the Building Commissioner.
 - (2) For other construction projects: Before issuance of a building or zoning permit by the Building Commissioner.
 - (3) For general clearing projects: Before issuance of a ***miscellaneous permit*** by the Building Commissioner.
- (c) The Engineer shall review the plans submitted under 1005.06 (a) or (b) for conformance with this regulation and approve, or return, for revisions with comments and recommendations for revisions. **The City may consult with a representative of the Cuyahoga County SWCD or other technical experts as necessary. Any costs associated with such consultations may be incurred by the applicant.** A plan rejected because of deficiencies shall receive a checklist or narrative report stating specific problems and the procedures for filing a revised plan. [LJ2]
- (d) Soil disturbing activities (including mechanized clearing) shall not begin and zoning, building, or grading permits shall not be issued without:
- (1) Approved SWP3 or Abbreviated SWP3
 - (2) NOI submittal to Ohio EPA and NPDES permit covered issued
 - (3) Physical marking in the field of protected areas or critical areas, including wetlands and riparian areas
 - (4) **Pre-construction held between City representatives, Contractors, and/or regulatory agents including but not limited to Site Inspectors.**
 - (5) Installation of construction entrances, perimeter sediment barriers and other erosion and sediment controls that must be in place to address initial site conditions.[LJ3]
- (e) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this regulation.
- (f) The developer, engineer and contractor, and other principal parties, shall meet with the City for a Pre-Construction Meeting no less than seven (7) days prior to soil-disturbing activity at the site to ensure that erosion and sediment control devices are properly installed, limits of disturbance and

buffer areas are properly delineated and construction personnel are aware of such devices and areas.

- (g) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

1005.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with SWP3s or Abbreviated SWP3s.

- (a) Ohio EPA Construction General Permit: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI), a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit including the NPDES Facility Permit number assigned by Ohio EPA, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable. Please note that when a separate SWP3 shall be prepared for a separate phase or stage of development, a separate NOI or NPDES Facility Permit number must be provided.
- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable because there are no wetlands on site. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- (c) Ohio EPA Isolated Wetland or Ephemeral Stream Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit or Ephemeral Stream application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit or Ephemeral Stream Permit is not applicable because there are no wetlands or ephemeral streams on the site. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (1) A letter from the site owner certifying that a qualified professional has evaluated the site and determined that Section 404 of the Clean Water Act is not applicable because there are no wetlands on site.
 - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other

waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation. Affirmation by the U.S. Army Corps of Engineers may be required.

- (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

1005.08 STORMWATER POLLUTION PREVENTION PLAN (SWP3)

- (a) The applicant shall submit a SWP3 that meets the requirements of the Construction General Permit and the following additional requirements. The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect. The SWP3 shall include control measures to ensure that discharges from the construction site and construction support activities comply with the non-numeric effluent limitations contained in the Construction General Permit.
- (b) In addition to all information required by the Construction General Permit, the SWP3 shall also include completed design tools found on Ohio EPA's website such as the Sediment Basin Compliance Spreadsheet.
- (c) Before any off-site support areas such as borrow or spoil areas, concrete or asphalt batch plants, equipment staging yards or material storage areas are utilized, a SWP3 for the off-site support area must be submitted and approved by the Engineer. The applicant shall ensure appropriate permits have been obtained to operate the off-site support area. Failure to do so can lead to enforcement action under Sections 1005.13 and 1005.14 of this code.
- (d) The Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings and shall contain all the information listed below. Recommendations included in the report and approved by the Engineer shall be incorporated in the grading plans and/or other specifications for site development.
 - (1) Data regarding the nature, distribution, strength, and erodibility of existing soils.
 - (2) If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
 - (3) Conclusions and recommendations for grading procedures.
 - (4) Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
 - (5) Design criteria for corrective measures when necessary.
 - (6) Opinions and recommendations covering the stability of the site.

- (7) Delineations of surface waters of the state located on the site.

1005.09 PERFORMANCE STANDARDS

The SWP3 must contain a description of the controls appropriate for each stage of construction operation and the applicant must implement such controls. BMP selection and design must meet criteria established within the current Construction General Permit. BMPs must be designed, constructed and installed to meet the specifications in *Rainwater and Land Development* or another design manual acceptable to the Engineer. The approved SWP3, and the sediment and erosion controls, and non-sediment pollution controls contained therein, shall be implemented and maintained according to the requirements in the Construction General Permit. Site operators must conduct site inspections as described in the Construction General Permit.

Certified inspection reports shall be submitted to the Engineer within seven (7) working days from the inspection and retained at the development site.

The following standards will also apply:

- (a) BMPs must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These BMPs must include, but are not limited to, the following:
- (1) Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter placed over a geotextile. Culverts shall be provided where construction entrances cross drainage ditches and water bars shall be provided to divert sediment-laden runoff away from connected roadways.
 - (2) Streets and catch basins adjacent to construction entrances shall be kept free of sediment tracked off site. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly and protected from sediment-laden runoff, if feasible without posing a public safety hazard.
 - (3) Based on site conditions, the Engineer may require additional best management practices to control off site tracking and dust. These additional BMPs may include:
 - a. Fencing shall be installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.
 - b. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The Engineer may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.
- (b) Construction vehicles shall avoid water resources. If it is infeasible to provide and maintain an undisturbed natural buffer around water resources, the SWP3 shall comply with all the following additional requirements:

- (1) All stream crossings shall be designed as specified in the most recent edition of Rainwater and Land Development.
 - (2) Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.
 - (3) Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.
 - (4) Protected areas or critical areas, including wetlands and riparian areas shall be physically marked in the field prior to earth disturbing activities.
- (c) For sites that will not be completed by October 1, a Pre-Winter Stabilization Meeting shall be held by the landowner and the developer, engineer and contractor of the project and the City prior to October 1, in order to plan and approve winter erosion and sediment controls as defined in the most current online edition of Rainwater and Land Development.

1005.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3)

- (a) In order to control sediment pollution of water resources, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.
- (b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- (c) The Abbreviated SWP3 shall include a minimum of the following BMPs. The Engineer may require other BMPs as site conditions warrant.
 - (1) Construction Entrances: Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter and placed over a geotextile fabric.
 - (2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be indicated on the plan. Use for other waste and wastewater is prohibited.
 - (3) Street Sweeping: Streets directly adjacent to construction entrances and receiving traffic from the development area shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.
 - (4) Stabilization: The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization

Area requiring stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a surface water of the state and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 14 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 14 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1
Areas at final grade	Within 7 days of reaching final grade or within 2 days of reaching final grade for areas within 50 feet of a surface water of the state
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

- (5) Inlet Protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed on storm water catch basins located on the subject property and, if there is no threat to public safety, on curb inlets closest to the construction entrance, to minimize sediment-laden water entering active storm drain systems, including rear yard inlets.

- (6) Silt Fence and Other Perimeter Controls. Silt fence and other perimeter controls approved by the City shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be placed along level contours and the permissible drainage area is limited to those indicated in in the Construction General Permit.

- (7) Internal Inspection and Maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24-hour period. Maintenance shall occur as detailed below:
 - a. When BMPs require repair or maintenance. If the internal inspection reveals that a BMP is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

 - b. When BMPs fail to provide their intended function. If the internal inspection reveals that a BMP fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

 - c. When BMPs depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the BMP must be implemented within ten (10) days from the date of the inspection. If the inspection reveals that the planned control practice is not needed,

the record must contain a statement of explanation as to why the control practice is not needed.

- (8) Final Stabilization: Final stabilization is achieved when the site has reached 70% cover and when the Engineer approves the site condition.

1005.11 FEES

The SWP3 and Abbreviated SWP3 review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City before the review process begins. Please consult with the Engineer for current fee schedule. Applicants will be charged \$250 for each additional inspection that the City must conduct if a site has one of the following compliance issues:

- (a) Construction activities have started at the site with no SWP3 completed;
- (b) Failure to install sediment basin(s) when the SWP3 and/or site drainage clearly indicate as a first step (within 7 days prior to grading and within 7 days of grubbing)
- (c) Failure to implement any sediment/erosion controls; or
- (d) Dewatering activities resulting in turbid discharges.

1005.12 BOND

- (a) If a SWP3 or abbreviated SWP3 is required by this regulation, soil disturbing activities shall not be permitted until a cash bond or deposit has been deposited with the City Finance Department, with notice to the Engineer. The amount shall be one thousand five hundred dollars (\$1,500) minimum, and an additional one thousand five hundred dollars (\$1,500) paid for each subsequent acre or fraction thereof or the cost of stabilizing disturbed areas based on a fee schedule established by the City. The bond will be used for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less City administrative fees, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the Engineer.
- (b) A portion of bond (equivalent of cost to apply final stabilization) will be retained until all areas disturbed by construction activity are permanently stabilized and a Notice of Termination has been submitted to Ohio EPA. Where vegetative growth is used to achieve permanent stabilization, the area shall comply with final stabilization requirements of the Construction General Permit.
- (c) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the Engineer.

1005.13 ENFORCEMENT

- (a) If the City, or its duly authorized representative, and/or another applicable governing regulatory authority, [L4] determines that a violation of the regulations adopted under this code exist, the City or representative may issue an immediate stop work order if the violator failed to obtain any

- federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.
- (b) All development areas may be subject to inspections by the Engineer or City Inspector SWCD [LJ5] to ensure compliance with the approved SWP3 or Abbreviated SWP3.
 - (c) After each inspection, the Engineer shall prepare and distribute a status report to the applicant.
 - (d) If an inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the Engineer may take action as detailed in this Chapter.
 - (e) Failure to maintain and repair erosion and sediment controls per the approved SWP3 plan may result in the following escalation. The penalty is determined by the total number of violations per site even if the violations are for different BMPs.
 - (1) First Violation: The Engineer shall issue a Notice of Deficiency to the owner or operator. All controls are to be repaired or maintained per the SWP3 plan within three (3) days of the notification. If controls have not been corrected after this time, the Engineer may issue a Stop Work Order for all activities until corrections have been made.
 - (2) Second Violation: The Engineer may issue a formal Notice of Violation which includes a \$500 administrative fee against the SWP3 Bond or site plan deposit. All controls are to be repaired or maintained per the approved SWP3 plan within three (3) days of the Notice of Violation. If controls have not been corrected after this time, the Engineer may issue a Stop Work Order for all activities until corrections have been made.
 - (3) Third and subsequent violations: The Engineer may issue a Stop Work Order for all construction activities and charge a \$1,000 administrative fee against the SWP3 bond or site plan deposit. The Stop Work Order will be lifted once all controls are in compliance with the approved SWP3 plan.
 - (f) The Engineer shall have the authority to make immediate on-site adjustments to the SWP3 in order to achieve compliance with this ordinance.
 - (g) A final inspection will be made to determine if the criteria of this code has been satisfied and a report will be presented to the City and the site operator on the site's compliance status.
 - (h) The Engineer will monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land of less than one contiguous acre to ensure compliance required by these regulations.
 - (i) The Engineer shall notify the U.S. Army Corps of Engineers when a violation on a development project covered by an Individual or Nationwide Permit is identified. The Engineer shall notify the Ohio Environmental Protection Agency when a violation on a development project covered by a Section 401 Water Quality Certification and/or Isolated Wetland Permit is identified.
 - (j) The City shall not issue building permits for projects regulated under this Chapter that have not received approval for an Abbreviate SWP3 or SWP3 for said project(s).

1005.15 APPEALS

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this regulation may appeal to the court of common pleas. Written notice of appeal shall be served on the City.

1005.99 PENALTY[LJ6]

- (a) Any person who shall violate any section of this regulation is guilty of a misdemeanor of the first degree, and upon conviction thereof, shall be subject to punishment as provided in Section 1105.99 of the Zoning Code.
- (b) The imposition of any other penalties provided herein shall not preclude the City instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Building Commissioner.

INTRODUCED BY: M . Burkons

ORDINANCE NO. 2022-128

AN ORDINANCE AMENDING BCO CHAPTER 1007, TITLED “COMPREHENSIVE STORMWATER MANAGEMENT” AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the City Engineer and the Environmental Manager have requested to Amend BCO Chapter 1007, titled “Comprehensive Stormwater Management” to include changes to the City of Beachwood Stormwater Management program; and

WHEREAS, these changes were reviewed and recommended by the Stormwater Commission to Council for approval.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Chapter 1007, titled “Comprehensive Stormwater Management”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. Changes are in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 3rd day of October, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 4th day of October, 2022.



Clerk

Approval: I have approved this legislation this 3rd day of October, 2022, and filed it with the Clerk.



Mayor

CHAPTER 1007 Comprehensive Stormwater Management

- 1007.01 Purpose and scope.
- 1007.02 Definitions.
- 1007.03 Disclaimer of liability.
- 1007.04 Conflicts, severability, nuisances and responsibility.
- 1007.05 Development of Comprehensive Stormwater Management Plans.
- 1007.06 Application procedures.
- 1007.07 Compliance with State and Federal regulations.
- 1007.08 Comprehensive Stormwater Management Plan.
- 1007.09 Performance standards.
- 1007.10 Alternative actions.
- 1007.11 Easements.
- 1007.12 Maintenance and final inspection approval.
- 1007.13 On-going inspections.
- 1007.14 Bond.
- 1007.15 Permits and deposits.
- 1007.99 Penalty.

CROSS REFERENCES

- Riparian and wetland setbacks - see P. & Z. Ch. 1001
- Illicit discharge and illegal connection control - see P. & Z. Ch. 1003
- Erosion and sediment control - see P. & Z. Ch. 1005

1007.01 PURPOSE AND SCOPE

- (a) The purpose of this regulation is to establish technically feasible and economically reasonable stormwater management standards to achieve a level of stormwater quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the City.
- (b) This regulation requires owners who develop or redevelop their property within the City to:
 - (1) Control stormwater runoff from their property and ensure that all Stormwater Control Measures (SCMs) are properly designed, constructed, and maintained.
 - (2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.
 - (3) Control the volume, rate, and quality of stormwater runoff originating from their property so that surface water and groundwater are protected and flooding and erosion potential are not increased.

- (4) Minimize the need to construct, repair, and replace subsurface storm drain systems.
 - (5) Preserve natural infiltration and groundwater recharge, and maintain subsurface flow that replenishes water resources, except in slippage prone soils.
 - (6) Incorporate stormwater quality and quantity controls into site planning and design at the earliest possible stage in the development process.
 - (7) Reduce the expense of remedial projects needed to address problems caused by inadequate stormwater management.
 - (8) Maximize use of SCMs that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
 - (9) Design sites to minimize the number of stream crossings and the width of associated disturbance in order to minimize the City's future expenses related to the maintenance and repair of stream crossings.
 - (10) Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.
- (c) This regulation shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section 1007.01.
- (d) Public entities, including the State of Ohio, Cuyahoga County, and the City shall comply with this regulation for linear projects within public rights-of way (e.g. roadway and sidewalk projects).
- (e) This regulation does not require a Comprehensive Stormwater Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the Engineer or Ohio EPA. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 1005 Erosion and Sediment Control.

1007.02 DEFINITIONS

The definitions contained in Ohio Environmental Protection Agency (“Ohio EPA”)’s Construction General Permit entitled “Authorization for Storm Water Discharges Associated with Construction Activity under the National Pollutant Discharge Elimination System” and Ohio EPA’s Municipal Separate Storm Sewer (MS4) Permit entitled “Authorization for Small Municipal Separate Storm Sewer Systems to Discharge Stormwater Under the National Pollutant Discharge Elimination System” in effect at the time a permit is applied for under this chapter shall apply to this chapter and the following definitions shall also apply:

- (a) ACRE: A measurement of area equaling 43,560 square feet.
- (b) AS-BUILT SURVEY: A survey shown on a plan or drawing prepared by a registered Professional Surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.
- (c) CITY: The City of Beachwood, its designated representatives, boards, or commissions.
- (d) COMPREHENSIVE STORMWATER MANAGEMENT PLAN: The written document and plans meeting the requirements of this regulation that sets forth the plans, practices, and SCMs to minimize stormwater runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve stormwater quality and stream channels.
- (e) CONSTRUCTION GENERAL PERMIT: The most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000005 and its successors).
- (f) CRITICAL STORM: A storm that is determined by calculating the percentage increase in volume of runoff by a proposed development area for the 1-year 24-hour event. The critical storm is used to calculate the maximum allowable stormwater discharge rate from a developed site.
- (g) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (h) DEVELOPMENT DRAINAGE AREA: A combination of each hydraulically unique watershed with individual outlet points on the development area.
- (i) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (j) DRAINAGE: The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (k) ENGINEER: The City Engineer and/or the City Engineer's designee, who shall work under and in coordination with the City Engineer.
- (l) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces
- (m) GRADING: The process in which the topography of the land is altered to a new slope.
- (n) IMPERVIOUS COVER: Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.

- (o) **MAXIMUM EXTENT PRACTICABLE:** The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Stormwater Phase II, must meet.
- (p) **POST-DEVELOPMENT:** The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (q) **PRE-CONSTRUCTION MEETING:** Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as submitted and approved.
- (r) **PRE-DEVELOPMENT:** The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (s) **PROFESSIONAL ENGINEER:** A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.
- (t) **RUNOFF:** The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.
- (u) **SEDIMENT:** The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (v) **SITE OWNER:** Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.
- (w) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed that may result in, or contribute to, increased stormwater quantity and/or decreased stormwater quality.
- (x) **STORMWATER CONTROL MEASURE (SCM):** A structure or area designed to remove pollutants from stormwater and/or reduce stormwater flow rates. SCMs are a subset of Best Management Practices (BMPs) as defined in the Construction General Permit.
- (y) **WATER RESOURCE:** Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included
- (z) **WATER RESOURCE CROSSING:** Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to

another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.

- (aa) WATERSHED: The total drainage area contributing stormwater runoff to a single point.
- (bb) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

1007.03 DISCLAIMER OF LIABILITY

- (a) Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.
- (b) By approving a Comprehensive Stormwater Management Plan under this regulation, the City does not accept responsibility for the design, installation, and operation and maintenance of SCMs.

1007.04 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

- (a) Where this regulation is in conflict with other provisions of law or ordinance or requirements in the Construction General Permit, the most restrictive provisions, as determined by the Engineer shall prevail.
- (b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.
- (e) The Engineer shall administer, implement, and enforce the provisions of this Chapter.

1007.05 DEVELOPMENT OF COMPREHENSIVE STORMWATER MANAGEMENT PLANS

- (a) This regulation requires that a Comprehensive Stormwater Management Plan be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land, and on which any regulated activity of Section 1007.01 (C) is proposed. A Comprehensive Stormwater Management Plan must be developed and implemented for all commercial and industrial site development disturbing more than four thousand (4,000) square

feet. The Engineer may require a Comprehensive Stormwater Management Plan for any soil disturbing activity.

- (b) The City shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary. The City may consult with the Cuyahoga County SWCD, state agencies, private engineers, stormwater districts, or other technical experts in reviewing the Comprehensive Stormwater Management Plan.

1007.06 APPLICATION PROCEDURES

- (a) Pre-Application Meeting: The applicant shall attend a Pre-Application Meeting with the Engineer, Building Commissioner, and City Planner to discuss the proposed project, review the requirements of this regulation, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.
- (b) Preliminary Comprehensive Stormwater Management Plan: The applicant shall submit two (2) sets of a Preliminary Comprehensive Stormwater Management and the applicable fees to the Building Commissioner. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, SCMs, and easements in sufficient detail and engineering analysis to allow the Engineer to determine if the site is laid out in a manner that meets the intent of this regulation and if the proposed SCMs are capable of controlling runoff from the site in compliance with this regulation. The applicant shall submit two (2) sets of the Preliminary Plan and applicable fees as follows:
 - (1) For subdivisions: In conjunction with the submission of the preliminary subdivision plan.
 - (2) For other construction projects where the development or redevelopment plan will result in the installation of impervious area, artificial turf or permeable pavement systems: In conjunction with the application for a zoning or building permit.
- (c) Final Comprehensive Stormwater Management Plan: The applicant shall submit two (2) sets of a Final Comprehensive Stormwater Management Plan and the applicable fees to the Building Commissioner in conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. Final Comprehensive Stormwater Management Plans shall meet the requirements of Section 1007.08 and shall be approved by the Engineer prior to approval of the final plat and/or before issuance of a building permit by the Building Commissioner.
- (d) Review and Comment: The Engineer shall review the Preliminary and Final Plans submitted and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised Preliminary or Final Plan.
- (e) Approval Necessary: Land clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Stormwater Management Plan.
- (f) Valid for Two Years: Approvals issued in accordance with this regulation shall remain valid for two

(2) years from the date of approval or as stipulated in the Construction General Permit.

1007.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with these regulations before the City will issue a building or zoning permit.

- (a) Ohio Environmental Protection Agency (Ohio EPA) National Pollutant Discharge Elimination System (NPDES) Permits authorizing stormwater discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI), a copy of the Ohio EPA Director's Authorization Letter with NPDES Facility Permit number for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (c) Ohio EPA Isolated Wetland or Ephemeral Stream Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit or Ephemeral Stream Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit or Ephemeral Stream Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
 - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
- (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water Resources permit application tracking number, a copy of the project approval letter from the

ODNR Division of Water Resources, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

1007.08 COMPREHENSIVE STORMWATER MANAGEMENT PLAN

- (a) Comprehensive Stormwater Management Plan Required: The applicant shall develop a Comprehensive Stormwater Management Plan describing how the quantity and quality of stormwater will be managed after construction is completed for every discharge from the site and/or into a water resource or small municipal separate storm sewer system (MS4). Comprehensive Stormwater Management Plans must meet the requirements in the Construction General Permit and these regulations.
- (b) Preparation by Professional Engineer: The Comprehensive Stormwater Management Plan shall be prepared by a registered Professional Engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the Engineer, a site survey shall be performed by a registered Professional Surveyor to establish boundary lines, measurements, or land surfaces.
- (c) Community Procedures: The Engineer shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the stormwater management system for the site. These procedures may be updated from time to time, at the discretion of the Engineer based on improvements in engineering, science, monitoring, and local maintenance experience. The Engineer shall make the final determination of whether SCMs proposed in the Comprehensive Stormwater Management Plan meet the requirements of this regulation.
- (d) Contents of Comprehensive Stormwater Management Plan: The Comprehensive Stormwater Management Plan must contain all elements and meet all requirements specified in the Construction General Permit. It shall also meet the following requirements.
 - (1) Location information: The application shall note the phase, if applicable, of the overall development plan and list subplot numbers if project is a subdivision.
 - (2) Site maps and SCM design plans: It is preferred that all SCMs and the entire site be shown on one plan sheet to allow a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on individual sheets should also be provided. Existing and proposed drainage patterns and any relevant offsite SCMs should be depicted. For each SCM, include the following:
 - a. An individual identification number
 - b. Location and size
 - c. Final site conditions and detail drawings of stormwater inlets and permanent SCMs. Details of SCMs shall be drawn to scale and shall show relevant volumes, elevations and sizes of contributing drainage areas.
 - d. A completed Ohio EPA WQv Calculator Spreadsheet and/or Runoff Reduction Spreadsheet or other equivalent compliance tools provided by Ohio EPA.
 - e. Any supplemental information requested by the Engineer.
 - (3) Required Calculations: The applicant shall submit calculations for projected stormwater

runoff flows, volumes, and timing into and through all SCMs for flood control, channel protection, water quality, and the condition of the habitat, stability, and incision of each water resource and its floodplain. These submittals shall be completed for both pre- and post-development land use conditions and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm determination and demonstrate that the runoff from offsite areas have been considered in the calculations. For each SCM, identify the drainage area and size in acres, percent impervious cover within the drainage area, volumetric runoff coefficient, peak discharge, and the time of concentration for each subwatershed. Pervious and impervious areas should be treated as separate subwatershed unless allowed at the discretion of the Engineer. Identify the SCM surface area, discharge and dewatering time, outlet type and dimensions.

- (4) Inspection and Maintenance Agreement: The Inspection and Maintenance Agreement required for SCMs under this regulation is a stand-alone document between the City and the applicant. This agreement shall be recorded with the County.
- (5) Inspection and Maintenance Plan: This plan will meet the requirements of the Construction General Permit and will be developed by the applicant and reviewed by the Engineer. Maintenance requirements of each SCM during and after construction should be included. Once the Inspection and Maintenance Plan is approved, a recorded copy of the Plan must be provided to the property owner or association that will be responsible for long-term operation and maintenance of the SCM and submitted to the Engineer as part of the final inspection approval as described in 1007.12.

1007.09 PERFORMANCE STANDARDS

- (a) General: The stormwater system, including SCMs for storage, treatment and control, and conveyance facilities, shall be designed to prevent structure flooding during the 100-year, 24-hour storm event; to maintain predevelopment runoff patterns, flows, and volumes; to meet the requirements of the Construction General Permit; and to meet the following criteria:
 - (1) Integrated SCMs that address degradation of water resources. The SCMs shall function as an integrated system that controls flooding and minimizes the degradation of the water resources receiving stormwater discharges from the site. Acceptable SCMs shall:
 - a. Not disturb riparian areas, unless the disturbance is intended to support a streambank stabilization project and complies with Section 1001.07 Uses Permitted in Wetland and Riparian Setbacks.
 - b. Maintain predevelopment hydrology and groundwater recharge on as much of the site as practicable. Where feasible, bioretention, permeable pavement with infiltration, underground storage with infiltration, infiltration trenches, infiltration basins, and/or rainwater harvesting must be the water quality SCMs used. Separate SCMs may be used for peak discharge control and water quality treatment.
 - c. Only install new impervious surfaces and compact soils where necessary to

support the future land use.

- d. Compensate for increased runoff volumes caused by new impervious surfaces and soil compaction by reducing stormwater peak flows to less than predevelopment levels.
 - e. Be designed according to the methodology included in the most current edition of *Rainwater and Land Development* or another design manual acceptable for use by the City and Ohio EPA.
- (2) Practices designed for final use: SCMs shall be designed to achieve the stormwater management objectives of this regulation, to be compatible with the proposed post-construction use of the site, to protect the public health, safety, and welfare, and to function safely with routine maintenance.
 - (3) Stormwater management for all lots: Areas developed for a subdivision, as defined in Chapter 1101 shall provide stormwater management and water quality controls for the development of all subdivided lots. This shall include provisions for lot grading and drainage that prevent structure flooding during the 100-year, 24-hour storm; and maintain, to the extent practicable, the pre-development runoff patterns, volumes, and peaks from each lot.
 - (4) Stormwater facilities in water resources: SCMs and related activities shall not be constructed in water resources unless the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1007.07 of this regulation, and the activity is in compliance with Chapter 1005 Erosion and Sediment Control and Chapter 1001 Riparian and Wetland Setbacks, all as determined by the Engineer.
 - (5) Stormwater ponds and surface conveyance channels: All stormwater pond and surface conveyance designs must provide a minimum of two (2) foot freeboard above the projected peak stage within the facility during the 100-year, 24-hour storm. When designing stormwater ponds and conveyance channels, the applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.
 - (6) Exemption: The site where soil-disturbing activities are conducted shall be exempt from the requirements of Section 1007.09 if it can be shown to the satisfaction of the Engineer that the site is part of a larger common plan of development where the stormwater management requirements for the site are provided by an existing SCM, or if the stormwater management requirements for the site are provided by SCMs defined in a regional or local stormwater management plan approved by the City and the requirements in the Construction General Permit are met.
 - (7) Maintenance: All SCMs shall be maintained in accordance with the Inspection and Maintenance Plan and Agreements approved by the Engineer.
 - (8) Ownership: Unless otherwise required by the City, SCMs serving multiple lots in

subdivisions shall be on a separate lot held and maintained by an entity of common ownership. SCMs serving single lots shall be placed on these lots, protected within an easement, and maintained by the property owner.

- (9) Preservation of Existing Natural Drainage: Practices that preserve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation and vegetative buffer strips; phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing and grubbing practices; and maintaining unconcentrated stormwater runoff to and through these areas.
 - (10) Post-Construction Soil Restoration: Except for areas that will be covered by impervious surface or have been incorporated into an SCM, the soil moisture-holding capacity of areas that have been cleared and graded must be restored to that of the original, undisturbed soil to the maximum extent practicable. Areas that have been compacted or had the topsoil or duff layer removed should be amended using the soil profile restoration design criteria in *Rainwater and Land Development*.
- (b) Stormwater Conveyance Design Criteria: All SCMs shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to:
- (1) Surface water protection: The Engineer may allow modification to streams, rivers, lakes, wetlands or other surface waters only if the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1007.07 of this regulation, and the activity is in compliance with Section 1005 Erosion and Sediment Control and Chapter 1001 Riparian and Wetland Setbacks, all as determined by the Engineer. At a minimum, stream relocation designs must show how the project will minimize changes to the vertical stability, floodplain form, channel form, and habitat of upstream and downstream channels on and off the property.
 - (2) Off-site stormwater discharges: Off-site stormwater runoff that discharges to or across the applicant's development site shall be conveyed through the stormwater conveyance system planned for the development site at its existing peak flow rates during each design storm. Off-site flows shall be diverted around stormwater quality control facilities or the stormwater quality control facility shall be sized to treat the off-site flow. Comprehensive Stormwater Management Plans will not be approved until it is demonstrated to the satisfaction of the Engineer that off-site runoff will be adequately conveyed through the development site in a manner that does not exacerbate upstream or downstream flooding and erosion.
 - (3) Sheet flow: The site shall be graded in a manner that maintains sheet flow over as large an area as possible. The maximum area of sheet flow shall be determined based on the slope, the uniformity of site grading, and the use of easements or other legally-binding mechanisms that prohibit re-grading and/or the placement of structures within sheet

flow areas. The sheet flow length shall not exceed 75 feet from impervious area or 150 feet from pervious areas. Flow shall be directed into an open channel, storm sewer, or other SCMs from areas too long and/or too large to maintain sheet flow, all as determined by the Engineer.

- (4) Open channels: Unless otherwise allowed by the Engineer, drainage tributary to SCMs shall be provided by an open channel with vegetated banks and designed to carry the 10-year, 24-hour stormwater runoff from upstream contributory areas.
- (5) Open drainage systems: Open drainage systems shall be preferred on all new development sites to convey stormwater where feasible. Storm sewer systems shall be allowed only when the site cannot be developed at densities allowed under City zoning or where the use of an open drainage system affects public health or safety, all as determined by the Engineer. The following criteria shall be used to design storm sewer systems when necessary:
 - a. Storm sewers shall be designed such that they do not surcharge from runoff caused by the 10-year, 24-hour storm, and that the hydraulic grade line of the storm sewer stays below the gutter flow line of the overlying roadway, or below the top of drainage structures outside the roadway during a 25-year, 24-hour storm. The system shall be designed to meet these requirements when conveying the flows from the contributing drainage area within the proposed development and existing flows from offsite areas that are upstream from the development.
 - b. The minimum inside diameter of pipe to be used in public storm sewer systems is twelve (12) inches. Smaller pipe sizes may be used in private systems, subject to the approval of the Engineer.
 - c. All storm sewer systems shall be designed taking into consideration the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency. The hydraulic grade line for the storm sewer system shall be computed with consideration for the energy losses associated with entrance into and exit from the system, friction through the system, and turbulence in the individual manholes, catch basins, and junctions within the system.
 - d. The inverts of all curb inlets, manholes, yard inlets, and other structures shall be formed and channelized to minimize the incidence of quiescent standing water where mosquitoes may breed.
 - e. Headwalls shall be required at all storm sewer inlets or outlets to and from open channels or lakes.
- (6) Water Resource Crossings: The following criteria shall be used to design structures that cross a water resource in the City:
 - a. Water resource crossings other than bridges shall be designed to convey the stream's flow based on the most recent Cuyahoga County Engineer Drainage

Manual Supplement to ODOT Location and Design Manual Volume 2, Drainage Design Section 1000 and 1100.

- b. Bridges, open bottom arch or spans are the preferred crossing technique and shall be considered in the planning phase of the development. Bridges and open spans should be considered for all State Scenic Rivers, coldwater habitat, exceptional warmwater habitat, seasonal salmonid habitat streams, and Class III headwater streams. The footers or piers for these bridges and open spans shall not be constructed below the ordinary high water mark.
 - c. If a culvert or other closed bottom crossing is used, twenty-five (25) percent of the cross-sectional area or a minimum of 1 foot of box culverts and pipe arches must be embedded below the channel bed. The conduit or conveyance must be sized to meet the most recent Cuyahoga County Engineer Drainage Manual Supplement to ODOT Location and Design Manual Volume 2, Drainage Design Section 1000 and 1100.
 - d. The minimum inside diameter of pipes to be used for crossings shall be 12 inches.
 - e. The maximum slope allowable shall be a slope that produces a 10-fps velocity within the culvert barrel under design flow conditions. Erosion protection and/or energy dissipaters shall be required to properly control entrance and outlet velocities.
 - f. All culvert installations shall be designed with consideration for the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency.
 - g. Headwalls shall be required at all culvert inlets or outlets to and from open channels or lakes.
 - h. Streams with a drainage area of 5 square miles or larger shall incorporate floodplain culverts at the bankfull elevation to restrict head loss differences across the crossing so as to cause no rise in the 100-year storm event.
 - i. Bridges shall be designed such that the hydraulic profile through a bridge shall be below the bottom chord of the bridge for either the 100-year, 24-hour storm, or the 100-year flood elevation as determined by FEMA, whichever is more restrictive.
- (7) Overland flooding: Overland flood routing paths shall be used to convey stormwater runoff from the 100-year, 24-hour storm event to an adequate receiving water resource or SCM such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least two feet below the finished grade elevation of all structures. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.

- (8) Compensatory flood storage mitigation: In order to preserve floodplain storage volumes and thereby avoid increases in water surface elevations, any filling within floodplains approved by the City must be compensated by providing an equivalent storage volume. First consideration for the location(s) of compensatory floodplain volumes should be given to areas where the stream channel will have immediate access to the new floodplain within the limits of the development site. Consideration will also be given to enlarging existing or proposed retention basins to compensate for floodplain fill if justified by a hydraulic analysis of the contributing watershed. Unless otherwise permitted by the City, reductions in volume due to floodplain fills must be mitigated within the legal boundaries of the development. Embankment slopes used in compensatory storage areas must reasonably conform to the natural slopes adjacent to the disturbed area. The use of vertical retaining structures is specifically prohibited.
- (9) Velocity dissipation: Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource are maintained and protected.

Stormwater Quality Control: The site shall be designed to direct runoff to one or more SCMs that meet or exceed the criteria in the Construction General Permit.

- (c) Stormwater Quantity Control: The Comprehensive Stormwater Management Plan shall describe how the proposed SCMs are designed to meet the following requirements for stormwater quantity control for each watershed in the development:
 - (1) The peak discharge rate of runoff from the Critical Storm and all more frequent storms occurring under post-development conditions shall not exceed the peak discharge rate of runoff from a 1-year, 24-hour storm occurring on the same development drainage area under pre-development conditions.
 - (2) Storms of less frequent occurrence (longer return periods) than the Critical Storm, up to the 100-year, 24-hour storm shall have peak runoff discharge rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions. The 1, 2, 5, 10, 25, 50, and 100-year storms shall be considered in designing a facility to meet this requirement.
 - (3) The Critical Storm for each specific development drainage area shall be determined as follows:
 - a. Determine, using a curve number-based hydrologic method or other hydrologic method approved by the Engineer the total volume (acre-feet) of runoff from a 1-year, 24-hour storm occurring on the development drainage area before and after development. These calculations shall meet the following standards:
 - 1. Calculations shall include the lot coverage assumptions used for full build out as proposed.
 - 2. Calculations shall be based on the entire contributing watershed to the

development area.

3. Drainage area maps shall include area, curve number, and time of concentrations. Time of concentration shall also show the flow path and the separation in flow type.
 4. Use the Precipitation-Frequency Atlas of the United States, NOAA Atlas 14, Vol 2(3) or more current version [*available online: <http://hdsc.nws.noaa.gov/hdsc/pfds/>*] for rainfall depth data for stormwater design.
 5. Use the SCS Type II rainfall distribution for all design events with a recurrence interval greater than 1 year. Include lot coverage assumptions used for full build out of the proposed condition.
 6. Curve numbers for the pre-development condition shall reflect the average type of land use over the past 10 years and not only the current land use.
 - i. Pre-development Curve Numbers – For all areas, use listed values from TR-55 NRCS USDA
 - ii. Post-development Curve Numbers – For all areas, use listed values from TR-55 NRCS USDA
 7. Time of Concentration - Use velocity-based methods from TR-55 NRCS USDA to estimate travel time (Tt) for overland (sheet) flow, shallow concentrated flow and channel flow.
 - i. Maximum sheet flow length is 100 ft.
 - ii. Use the appropriate “unpaved” velocity equation for shallow concentrated flow from Soil Conservation Service National Engineer Handbook Section 4 – Hydrology (NEH-4).
 8. The volume reduction provided by permeable pavement, bioretention, or other runoff reduction SCMs may be subtracted from the post-development stormwater volume. Volume reductions for these SCMs may be demonstrated using methods outlined in *Rainwater and Land Development* or a hydrologic model acceptable to the Engineer.
- b. To account for future post-construction improvements to the site, calculations shall assume an impervious surface such as asphalt or concrete for all parking areas and driveways except in instances of engineered permeable pavement systems. From the volume determined in Section 1007.09(D)(3)(a), determine the percent increase in volume of runoff due to development. Using the percentage, select the 24-hour Critical Storm from Table 3.

Table 3: 24-Hour Critical Storm

If the Percentage of Increase in Volume of Runoff is:		The Critical Storm will be:
Equal to or Greater Than:	and Less Than:	
----	10	1 year
10	20	2 year
20	50	5 year
50	100	10 year
100	250	25 year
250	500	50 year
500	---	100 year

For example, if the percent increase between the pre- and post-development runoff volume for a 1-year storm is 35%, the Critical Storm is a 5-year storm. The peak discharge rate of runoff for all storms up to this frequency shall be controlled so as not to exceed the peak discharge rate from the 1-year frequency storm under pre-development conditions in the development drainage area. The post-development runoff from all less frequent storms need only be controlled to meet pre-development peak discharge rates for each of those same storms.

(d) Stormwater Management for Previously Developed Areas:

- (1) SCMs on previously developed sites must meet the criteria in the Construction General Permit.

1007.10 ALTERNATIVE ACTIONS

(a) When the City determines that site constraints compromise the intent of this regulation, off-site alternatives may be used that result in an improvement of water quality and a reduction of stormwater quantity. Such alternatives shall meet the standards in the Construction General Permit and shall achieve the same level of stormwater quantity control that would be achieved by the on-site controls required under this regulation. Proof of Ohio EPA review and approval for any alternative action proposed is required. Alternative actions may include but are not limited to the following. All alternative actions shall be approved by the Engineer.

- (1) Fees, in an amount specified by the City to be applied to community-wide SCMs.
- (2) Implementation of offsite SCMs and/or the retrofit of an existing SCM to increase quality and quantity control.
- (3) Stream, floodplain, or wetland restoration.

- (4) Acquisition or conservation easements placed on protected open space significantly contributing to stormwater control such as wetland complexes.

1007.11 EASEMENTS

Access to SCMs as required by the Engineer for inspections and maintenance shall be secured by easements. The following conditions shall apply to all easements:

- (a) Easements shall be included in the Inspection and Maintenance Agreement submitted with the Comprehensive Stormwater Management Plan.
- (b) Easements shall be approved by the City prior to approval of a final plat and shall be recorded with the Cuyahoga County Fiscal Officer and on all property titled by the property owner.
- (c) Unless otherwise required by the City, access easements between a public right-of-way and all SCMs shall be no less than 25-feet wide. The easement shall also incorporate the entire SCM plus an additional 25-foot wide band around the perimeter of the SCM.
- (d) The easement shall be graded and/or stabilized as necessary to allow maintenance equipment to access and manipulate around and within each facility, as defined in the Inspection and Maintenance Agreement for the site.
- (e) Easements to SCMs shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of stormwater and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the City. Any re-grading and/or obstruction placed within a maintenance easement may be removed by the City at the property owners' expense.

1007.12 MAINTENANCE AND FINAL INSPECTION APPROVAL^[U1]

To receive final inspection and acceptance of any project, or portion thereof, the following must be completed by the applicant and provided to the Engineer:

- (a) Final stabilization must be achieved and all permanent SCMs must be installed and made functional, as determined by the Engineer and per the approved Comprehensive Stormwater Management Plan.
- (b) An As-Built Certification, including As-Built Survey and Inspection, must be sealed, signed and dated by a Professional Engineer and a Professional Surveyor with a statement certifying that the SCMs, as designed and installed, meet the requirements of the Comprehensive Stormwater Management Plan approved by the Engineer. In evaluating this certification, the Engineer may require the submission of a new set of SCM calculations if they determine that the design was altered significantly from the approved Comprehensive Stormwater Management Plan. The As-Built Survey must provide the location, dimensions, and bearing of such SCMs and include the entity responsible for long-term maintenance as detailed in the Inspection and Maintenance Agreement.
- (c) A copy of the complete and recorded Inspection and Maintenance Plan and Inspection and

Maintenance Agreement as specified in Section 1007.08 must be provided to the Engineer.

- (d) A post-construction transition meeting must be held with the City, property owner, project engineer, and staff in charge of the maintenance of the SCMs to discuss design, construction, long-term operation and maintenance and annual inspections/reports for the community after the SCM is constructed and before a notice of termination (NOT) is submitted.

1007.13 ON-GOING INSPECTIONS

The owner shall inspect SCMs regularly as described in the Inspection and Maintenance Plan and Inspection and Maintenance Agreement. The City or its authorized agent has the authority to enter upon the property to conduct inspections as necessary, with prior notification of the property owner, to verify that the SCMs are being maintained and operated in accordance with this regulation. Upon finding a malfunction or other need for maintenance or repair, the City or its authorized agent shall provide written notification to the responsible party, as detailed in the Inspection and Maintenance Agreement, of the need for maintenance. Upon notification, the responsible party shall have ten (10) working days, or other mutually agreed upon time, to make repairs or submit a plan with detailed action items and established timelines. Should repairs not be made within this time, or a plan approved by the Engineer for these repairs not in place, the City may undertake the necessary repairs and assess the responsible party.

1007.14 FEES

The Comprehensive Stormwater Management Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City before the review process begins. The Engineer shall establish a fee schedule based upon the actual estimated cost for providing these services.

1007.15 BOND

- (a) If a Comprehensive Stormwater Management Plan is required by this regulation, soil-disturbing activities shall not be permitted until a cash bond of ten percent (10%) of the total project cost has been deposited with the City Finance Department, with notice to the Engineer. This bond shall be posted for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The stormwater bond will be returned, less City administrative fees, when the following three criteria are met:
 - (1) The site has been stabilized, temporary BMPs have been removed, and the sediment settling basin has been converted to or replaced with post-construction SCM(s) and one of the following conditions are met:
 - a. 100% of the total project has achieved permanent stabilization.
 - b. Less than one (1) acre of lots remain unbuilt.
 - c. No development activities have occurred for one (1) year.
 - (2) An As-Built Certification of all SCMs is approved by the Engineer.

- (3) An Inspection and Maintenance Plan has been approved by the City and an Inspection and Maintenance Agreement has been signed by the developer, the contractor, the City, and the private owner or homeowners association who will take long term responsibility for these SCMs, is accepted by the Engineer.
- (b) Once these criteria are met, the applicant shall be reimbursed all bond monies that were not used for any part of the project. If all of these criteria are not met after three years of permanent stabilization of the site, the City may use the bond monies to fix any outstanding issues with all stormwater management structures on the site and the remainder of the bond shall be given to the private lot owner/ homeowners association for the purpose of long-term maintenance of the project.

1007.16 INSTALLATION OF WATER QUALITY STORMWATER CONTROL MEASURES

The applicant may not direct runoff through any water quality structures or portions thereof that would be degraded by construction site sediment until the entire area tributary to the structure has reached final stabilization as determined by the Engineer. This occurs after the completion of the final grade at the site, after all the utilities are installed, and the site is subsequently stabilized with vegetation or other appropriate methods. The developer must provide documentation acceptable to the Engineer to demonstrate that the site is completely stabilized. Upon this proof of compliance, the water quality structure(s) may be completed and placed into service. Upon completion of installation of these SCMs, all disturbed areas and/or exposed soils caused by the installation of these practices must be stabilized within two (2) days.

1007.17 PENALTY

- (a) Any person who violates any provision of this regulation is guilty of a misdemeanor of the first degree, and upon conviction thereof, shall be subject to punishment as provided in Section 1105.99 of the Zoning Code.
- (b) The imposition of any other penalties provided herein shall not preclude the City instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Building Commissioner.

INTRODUCED BY: J. Taylor

AMENDED ORDINANCE NO. 2022-140

AN ORDINANCE AMENDING BCO CHAPTER 121.09 TITLED “ADVERTISING FOR BIDS; AWARDING CONTRACTS” AMENDING SECTION (a)(2) AND ADDING SECTION (e)(1) AND (e)(2), BCO SECTION 121.10 TITLED “EMPLOYING CONSULTANTS”, AND BCO SECTION 131.04 TITLED “AUTHORITY TO SETTLE MORAL CLAIMS”; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Law Director has recommended Amending BCO Chapter Section 121.09, titled “Advertising for Bids; Awarding Contracts” amending Section (a)(2) and adding Section (e)(1) and (e)(2), BCO Section 121.10 titled “Employing Consultants”, and BCO Section 131.04 titled “Authority to Settle Moral Claims” to be consistent with the Mayor’s spending authority amount of Twenty-Five Thousand Dollars and No/Cents (\$25,000.00).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Section 121.09, titled “Advertising for Bids; Awarding Contracts”, BCO Section 121.10 titled “Employing Consultants”, and BCO Section 131.04 titled “Authority to Settle Moral Claims”, to read and provide, in its entirety, as indicated in Exhibit “A”, Exhibit “B”, and Exhibit “C” which are attached hereto and incorporated herein. Old language is ~~strikethrough~~ and New language is in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

ORDINANCE NO. 2022-140

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 7th day of November, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 8th day of November, 2022.

Whitney M. Crook
Clerk

Approval: I have approved this legislation this 8th day of November, 2022, and filed it with the Clerk.

Justin Borand
Mayor

121.09 ADVERTISING FOR BIDS, AWARDING CONTRACTS; **ACCEPTING DONATIONS.**

(a) (2) If an ordinance directing the Mayor and Finance Director to enter into an appropriate contract with a successful bidder is approved by Council in accordance with the procedure outlined above in (a)(i) of this section, and such contract is in fact executed by the City, and if, during the performance of an awarded contract it should become apparent that a change order or alteration is necessary to the original contract, in an amount in excess of ~~fifteen thousand dollars~~ **twenty-five thousand dollars and no/cents** (~~\$15,000~~ **\$25,000.00**), such change order or alteration must first be authorized by Council. The need for the change order or alteration shall be presented to Council by ordinance. If the change order or alteration to an existing contract is ~~fifteen thousand dollars~~ **twenty-five thousand dollars and no/cents** (~~\$15,000~~ **\$25,000.00**) or less, the Mayor is authorized to enter into such supplemental agreement without Council's authorization. Such amounts shall be cumulative and shall not be offset by non-performed items or other credits.

(e) (1) Offers of sponsorship, in-kind donations or donation of cash or items valued up to twenty-five thousand dollars and no/cents (\$25,000.00) may be accepted by the Mayor.

(2) Offers of sponsorships, in-kind donations or donations of cash or items valued more than twenty-five thousand dollars and no/cents (\$25,000.00) must be accepted by City Council.

EXHIBIT B

121.10 EMPLOYING CONSULTANTS.

The Mayor is authorized to employ expert consultants to advise and assist the City officials and employees with respect to municipal problems on such terms and conditions as he shall see fit provided compensation for such services is ~~fifteen thousand dollars~~ **twenty-five thousand dollars and no/cents** (~~\$15,000~~ **\$25,000.00**) or less.

Upon a motion duly adopted by a majority of the members of Council for services in excess of ~~fifteen thousand dollars~~ **twenty-five thousand dollars and no/cents** (~~\$15,000~~ **\$25,000.00**), it shall direct and authorize the Mayor to employ expert consultants to advise and assist the City officials and employees with respect to municipal problems on such terms and conditions as are prescribed in such motion.

131.04 AUTHORITY TO SETTLE MORAL **OR LEGAL** CLAIMS.

The Mayor is hereby authorized to settle moral **or legal** claims made against the City, with the approval of the Law Director **and notification to City Council**, of not more than one thousand five hundred ~~five thousand~~ **dollars and no/cents** (\$1,500 **\$5,000.00**). As used in this section, a "moral claim" means a claim against the City which is legally doubtful or uncertain, but which, in the course of natural justice, should be paid to avoid an unreasonable and undue hardship upon a person who has been caused a loss through no fault of himself or herself, which loss arises out of some act or omission relating to governmental or proprietary activities of the City.

INTRODUCED BY: M. Burkons

ORDINANCE NO. 2022-141

AN ORDINANCE AMENDING BCO SECTION 1375.07, TITLED “GENERAL MAINTENANCE REQUIREMENTS”; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Building Commissioner has requested an amendment to BCO Section 1375.07 to reflect penalties for failure to provide an Engineering Inspection every two years (2) on all Structured Parking as defined in the Beachwood Codified Ordinances; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Council hereby amends BCO Section 1375.07, titled “General Maintenance Requirements”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. New language is in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary to be effective as soon as possible; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest:

I hereby certify this legislation was duly adopted on the 7th day of November, 2022 and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 8th day of November, 2022.



Clerk

Approval:

I have approved this legislation this 8th day of November, 2022, and filed it with the Clerk.



Mayor

1375.07 GENERAL MAINTENANCE REQUIREMENTS.

(a) A commercial structure or part thereof shall be maintained in good repair and shall be capable of performing the function for which such structure or part, or any feature thereof, was designed or intended to be used.

(b) All equipment and facilities appurtenant to a commercial structure or dwelling unit shall be maintained in good and safe working order.

(c) All structured parking, as defined within these codified ordinances, shall be inspected by a State of Ohio Registered Structural Engineer every two years. Structured parking that fails to comply with this section shall be presumed unsafe and declared an imminent danger to the public and shall be closed until compliance with this section. The Building Commissioner shall provide forty-eight (48) hour notice of such closure and shall not re-open the structure until an engineering report is reviewed and approved by the Building Commissioner.

AN ORDINANCE AMENDING BCO SECTION 121.09, TITLED “ADVERTISING FOR BIDS; AWARDING CONTRACTS;” AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the Charter of the City of Beachwood Article III, Section 5(3)(E) provides that Council shall provide a procedure for the awarding of contracts that procedure is outlined in BCO Section 121.09 titled “Advertising for Bids; Awarding Contracts”; and

WHEREAS, the Finance Director requests that BCO Section 121.09 be amended to restore the City’s authorization for participation in the Sourcewell Cooperative Purchasing Program, which is a national Cooperative Purchasing Agency; and

WHEREAS, Sourcewell is a cooperative purchasing organization approved by the State of Ohio Administrative Services for purchases.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio that:

Section 1: Section 1: Council hereby amends BCO Section 121.09, titled “Advertising for Bids; Awarding Contracts”, to read and provide, in its entirety, as indicated in Exhibit “A” which is attached hereto and incorporated herein. New language is in **red**.

Section 2: Any other Ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict and all Ordinances not amended by this Ordinance shall remain in full force and effect.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure immediately necessary for the preservation of the public peace, health, or safety, or the efficient operation of the City, and for the further reason that it is necessary to implement the updated language at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

ORDINANCE NO. 2023-31

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 7th day of March, 2023, and presented to the Mayor for approval or rejection in accordance with Article Section 8 of the Charter on the 8th day of March, 2023.



Clerk

Approval: I have approved this legislation this 8th day of March, 2023, and filed it with the Clerk.



Mayor

121.09 ADVERTISING FOR BIDS; AWARDING CONTRACTS.

(d) (1) The City may participate in contracts authorized by the Equalis Cooperative purchasing program, **Sourcewell**, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, other State of Ohio cooperative purchasing programs and the Interlocal Purchasing System (TIPS Purchasing Cooperative) in order for the City to purchase equipment, materials, supplies and other articles that have been competitively bid in accordance with participating cooperative purchasing programs.

(2) The Mayor is authorized to agree, in the name of the City, to be bound by all terms and conditions that the Equalis Cooperative purchasing program, **Sourcewell**, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, the Interlocal Purchasing System (TIPS Purchasing Cooperative), and other State of Ohio cooperative purchasing programs prescribes.

(3) The Mayor is authorized to agree, in the name of the City, to directly pay any vendor, under contract with the Equalis Cooperative purchasing program, **Sourcewell**, the National Association of State Procurement Officials (“NASPO”) cooperative purchasing program, the General Services Administration (“GSA”) cooperative purchasing program, the Interlocal Purchasing System (TIPS Purchasing Cooperative) and other State of Ohio cooperative purchasing programs in which the City participates, for those items that the City receives pursuant to the contract.