

*\*\*PERSONAL AUDIO ENHANCERS ARE AVAILABLE FROM THE COUNCIL  
SECRETARY\*\**

**AGENDA FOR REGULAR ELKHART CITY COUNCIL MEETING**

LOCATION: CITY HALL, 2<sup>ND</sup> FLOOR, COUNCIL CHAMBERS

**November 4, 2024**

**6:00 P.M.**

**1. Call to Order, Pledge, Moment of Silent Meditation, Roll Call**

**2. Minutes for Approval**

Minutes of October 17, 2024 – Special Call Council Meeting

Minutes of October 21, 2024 – Council Meeting

**Presentations and Introductions**

Diana Lawson, Lerner Theatre, 100 Anniversary Celebration

**Unfinished Business**

**a) Reports of Council Committees**

**b) Ordinances on Second-Third Reading**

**Proposed Ordinance 24-O-41**, an ordinance amending the Zoning Map created pursuant to Ordinance No. 4370, the “Zoning Ordinance of the City of Elkhart, Indiana” as amended, to rezone 203 N. Nappanee Street, Elkhart, IN 46514, from R-2, One Family Dwelling District to O, Office District

**Proposed Ordinance 24-O-42**, an ordinance amending the Zoning Map created pursuant to Ordinance No. 4370, the “Zoning Ordinance of the City of Elkhart, Indiana” as amended, to rezone 2520 and 2526 Bypass Road, Elkhart, IN 46514, from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling

**Proposed Ordinance 24-O-43**, an ordinance enacting and adopting the Twenty-Third and Twenty-Fourth Supplements to the Code of Ordinances for the City of Elkhart, Indiana

**c) Ordinances and Resolutions Referred to Committees**

**d) Tabled Ordinances and Resolutions**

**Proposed Ordinance 24-O-10**, an ordinance of the Common Council of the City of Elkhart, Indiana, authorizing the issuance of the City of Elkhart, Indiana, taxable Economic Development Revenue Bonds and approving and authorizing other actions in respect thereto

3. **New Business**

a. **Ordinances on First Reading**

**Proposed Ordinance 24-O-44**, an ordinance authorizing the Mayor or his Designee to secure an Indiana Department of Homeland Security Grant in the amount of Sixty Thousand Dollars (\$60,000.00) for the purchase of a Birthing Simulation Mannequin for training purposes by the Elkhart Fire Department

**Proposed Ordinance 24-O-45**, an ordinance appropriating Three Hundred Twenty-Five Thousand and 00/100 Dollars (\$325,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services Account to upgrade the Audio-Video (AV) System of the Common Council Chambers and other improvements

**Proposed Ordinance 24-O-46**, an ordinance appropriating Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services Account to collaborate with the Elkhart Chamber of Commerce in the implementation of the Benham Neighborhood Plan

**Proposed Ordinance 24-O-47**, an ordinance appropriating One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Negative Economic Impact Account to fund a collaboration with the Institute for Entrepreneurial Communities

**Proposed Ordinance 24-O-48**, an ordinance appropriating One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services Account to upgrade the heating, ventilation and air conditioning (HVAC) system of City Hall

**Resolutions**

**Proposed Resolution 24-R-51**, a resolution of the Common Council of the City of Elkhart, Indiana, confirming Resolution No. R-50-24, which declared a certain area in the City of Elkhart to be an Economic Revitalization Area for the purpose of Granting Tax Phase-In Benefits to Consolidated Metals, Inc.\ Westwood Manor Inc.

**Proposed Resolution 24-R-52**, a resolution of the Common Council of the City of Elkhart, Indiana, to approve two memoranda of agreements between the City of Elkhart and Consolidated Metals Inc.\Westwood Manor Inc.

**Proposed Resolution 24-R-53**, a resolution of the Common Council of the City of Elkhart, Indiana, declaring a certain area to be an Economic Revitalization Area for the purpose of Granting Tax Phase-In Benefits to PECF Enterprises Inc. DBA Triangle Rubber Co, LLC\N7 Guild LLC

b. **Vacation Hearings**

There are no vacation hearings

c. **Other New Business**

d. **Reports of Mayor, Board of Works, Board of Safety or City Departments**

e. **Neighborhood Association Report**

f. **Privilege of the Floor**

**Please limit your comments to 3 minutes to allow others time to comment**

g. **Scheduling of Committee Meetings**

4. **Acceptance of Communications**

Minutes of October 8, 2024 – Board of Public Safety

**Adjournment**

# DRAFT

## MINUTES OF THE SPECIAL CALL COMMON COUNCIL MEETING OF OCTOBER 17, 2024

Present: Council President Arvis Dawson  
Council Members Alex Holtz, LaTonya King, Aaron Mishler, Dwight Fish,  
Tonda Hines, Chad Crabtree, and David Henke

Absent: Councilman Brent Curry

This meeting was made available to the public electronically through WebEx.

President Dawson called the meeting to order at 6:01 p.m. in the Council Chambers at City Hall, 229 S. Second Street, in Elkhart. All Council Members were present in Council Chambers.

Mayor Rod Roberson led the assembly in the Pledge of Allegiance. President Dawson asked for a moment of silent reflection.

The clerk called the roll.

President Dawson asked the clerk to read the special call notice in its entirety.

### OPENING STATEMENT

Opening statement starts at 39 minutes and 18 seconds of the audio recording.

The purpose of the meeting will be to adopt the 2025 budget and to adopt the 2025 salary ordinances for everyone except the fire department, which will be adopted at the regular Council meeting on Monday, October 21, 2024.

Opening statement ends at 39 minutes and 43 seconds of the audio recording.

### *Proposed Ordinance 24-O-34*

#### **AN ORDINANCE ADOPTING THE OPERATING BUDGET FOR 2025 CALENDAR YEAR, APPROPRIATING FUNDS FOR SUCH PURPOSE AND ESTABLISHING THE TAX RATE FOR THE CITY OF ELKHART**

President Dawson asked the clerk to read the proposed ordinance by title only. He asked for a motion and second to adopt the ordinance. Motion by Councilwoman Hines, second by Councilman Fish.



# DRAFT

## COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-34

President Dawson opened the council discussion starting at 41 minutes and 20 seconds of the audio recording.

**Councilwoman Hines** said the process of this budget is very daunting and she wanted to compliment the administration, the department heads and anyone else that was part of putting together the budget and presentations that were given at the budget meeting. It was a long day. She stated even though she has been on the council for a while, some of the department heads had changed and it was good to see the department heads and put a face with a name. The information provided to the questions that were asked prior to this meeting were answered in a timely manner and she was appreciative of that and everything they do.

**Councilman Henke** said he has some significant concerns on trending in the budget and he would like to see the budget after the transfer agreements are done. As he reflected on trend plus request, he believes the budget is about \$7,000,000.00 overfunded and he wondered if that figure could be reduced. He stated he would like to make the following motions to amend the budget:

### **Page 26 of the Budget Book, Common Council, Other Services & Charges**

Requested amendment to line item 1101-5-009-4310400, Professional Services for a reduction of \$30,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

### **Page 30 of the Budget Book, Human Resources, Other Services & Charges**

Requested amendment to line item 1101-5-011-4390910, Education & Training for a reduction of \$20,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

### **Page 34 of the Budget Books, Economic Development, Personnel Services**

Requested amendment to line item 1101-5-016-4110130, Full Time Wages for a reduction of \$25,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

### **Page 36 of the Budget Book, Planning Department, Personnel Services**

Requested amendment to line item 1101-5-017-4110130, Full Time Wages for a reduction of \$50,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

### **Page 40 of the Budget Book, Fire Department, Personnel Services**

Requested amendment to line item 1101-5-217-4110130, Full Time Wages for a reduction of \$500,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

# DRAFT

## **Page 46 of the Budget Book, Police Department, Personnel Services**

Requested amendment to line item 1101-5-219-4110130, Full Time Wages for a reduction of \$75,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

## **Page 52 of the Budget Book, Buildings & Grounds Maintenance, Personnel Services**

Requested amendment to line item 1101-5-303-4110140, Temporary, for a reduction of \$75,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

## **Page 62 of the Budget Book, Parks & Recreation, Personnel Services**

Requested amendment to line item 1101-5-501-4110130, Full Time, for a reduction of \$250,000.00.

President Dawson asked for a second on the motion by Councilman Henke. Motion dies for lack of a second.

President Dawson read a statement from Councilman Curry who was absent due to a scheduling conflict. Councilman Curry said it is a very responsible budget and he can support it.

### **PUBLIC DISCUSSION ON PROPOSED ORDINANCE 24-O-34**

President Dawson opened the discussion starting at 50 minutes and 48 seconds of the audio recording.

There was no public discussion.

### **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-34**

President Dawson returned the discussion to the council starting at 51 minutes of the audio recording.

There was no further discussion.

President Dawson asked the clerk to do a roll call vote on second reading.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Dawson**

**NAYS: Henke**

**By a vote of 7-1, the proposed ordinance passed on second reading.**

# DRAFT

President Dawson asked for a motion and a second for third and final. Motion by Councilwoman Hines, second by Councilman Mishler.

President Dawson asked the clerk to read the proposed ordinance by title only and do a roll call vote.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Dawson**

**NAYS: Henke**

**By a vote of 7-1, the proposed ordinance passed on third and final.**

Discussion on the proposed ordinance ends at 51 minutes and 59 seconds of the audio recording.

## *Proposed Ordinance 24-O-35*

### **AN ORDINANCE FIXING THE ANNUAL SALARIES OF ELECTED OFFICIALS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2025**

President Dawson asked the clerk to read the proposed ordinance by title only. He asked for a motion and second to adopt the ordinance. Motion by Councilwoman Hines, second by Councilman Fish.

#### **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-35**

President Dawson opened the council discussion starting at 52 minutes and 25 seconds of the audio recording.

There was no council discussion.

#### **PUBLIC DISCUSSION ON PROPOSED ORDINANCE 24-O-35**

President Dawson opened the discussion starting at 52 minutes and 31 seconds of the audio recording.

There was no public discussion.

#### **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-35**

President Dawson returned the discussion to the council starting at 52 minutes and 36 seconds of the audio recording.

There was no further discussion.

President Dawson asked the clerk to do a roll call vote on second reading.

# DRAFT

**AYES: Holtz, King, Mishler, Fish, Hines, Dawson**

**NAYS: Crabtree, Henke**

**By a vote of 6-2, the proposed ordinance passed on second reading.**

President Dawson asked for a motion and a second for third and final. Motion by Councilman Mishler, second by Councilman Holtz.

President Dawson asked the clerk to read the proposed ordinance by title only and do a roll call vote.

**AYES: Holtz, King, Mishler, Fish, Hines, Dawson**

**NAYS: Crabtree, Henke**

**By a vote of 6-2, the proposed ordinance passed on third and final.**

Discussion on the proposed ordinance ends at 53 minutes and 38 seconds of the audio recording.

## *Proposed Ordinance 24-O-36*

### **AN ORDINANCE FIXING THE SALARIES AND WAGES FOR APPOINTED OFFICERS, AND OTHER SALARIES EMPLOYEES OF THE CITY OF ELKHART, INDIANA, FOR THE YEAR 2025**

President Dawson asked the clerk to read the proposed ordinance by title only. He asked for a motion and second to adopt the ordinance. Motion by Councilman Crabtree, second by Councilman Fish.

#### **COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-36**

President Dawson opened the council discussion starting at 54 minutes and 04 seconds of the audio recording.

There was no council discussion.

#### **PUBLIC DISCUSSION ON PROPOSED ORDINANCE 24-O-36**

President Dawson opened the discussion starting at 54 minutes and 09 seconds of the audio recording.

There was no public discussion.

# DRAFT

## COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-36

President Dawson returned the discussion to the council starting at 54 minutes and 14 seconds of the audio recording.

There was no further discussion.

President Dawson asked the clerk to do a roll call vote on second reading.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Henke, Dawson**

**NAYS:**

**By a vote of 8-0, the proposed ordinance passed on second reading.**

President Dawson asked for a motion and a second for third and final. Motion by Councilman Mishler, second by Councilwoman Hines.

President Dawson asked the clerk to read the proposed ordinance by title only and do a roll call vote.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Henke, Dawson**

**NAYS:**

**By a vote of 8-0, the proposed ordinance passed on third and final.**

Discussion on the proposed ordinance ends at 55 minutes and 05 seconds of the audio recording.

### *Proposed Ordinance 24-O-37*

## **AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE POLICE OFFICERS OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2025**

President Dawson asked the clerk to read the proposed ordinance by title only. He asked for a motion and second to adopt the ordinance. Motion by Councilman Crabtree, second by Councilman Fish.

## COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-37

President Dawson opened the council discussion starting at 55 minutes and 27 seconds of the audio recording.

There was no council discussion.

# DRAFT

## PUBLIC DISCUSSION ON PROPOSED ORDINANCE 24-O-37

President Dawson opened the discussion starting at 55 minutes and 31 seconds of the audio recording.

There was no public discussion.

## COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-37

President Dawson returned the discussion to the council starting at 55 minutes and 35 seconds of the audio recording.

There was no further discussion.

President Dawson asked the clerk to do a roll call vote on second reading.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Henke, Dawson**

**NAYS:**

**By a vote of 8-0, the proposed ordinance passed on second reading.**

President Dawson asked for a motion and a second for third and final. Motion by Councilman Crabtree, second by Councilwoman Hines.

**AYES: Holtz, King, Mishler, Fish, Hines, Crabtree, Henke, Dawson**

**NAYS:**

**By a vote of 8-0, the proposed ordinance passed on third and final.**

Discussion on the proposed ordinance ends at 55 minutes and 05 seconds of the audio recording.

## FIRST READING

### *Proposed Ordinance 24-O-40*

### **AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE FIRE DEPARTMENT OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2025**

President Dawson asked the clerk to read the proposed ordinance by title only. If there are no objections this will move on to second and third reading at the council meeting on October 21, 2024.

There were no objections and the proposed ordinance moved to second reading.

# DRAFT

## ADJOURNMENT

President Dawson asked for a motion to adjourn.

Motion by Councilman Fish, second by Councilman Mishler.

**By a unanimous voice vote, the meeting was adjourned.**

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Debra D. Barrett, Elkhart City Clerk

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Arvis L. Dawson  
President of the Elkhart City Council

# DRAFT

## MINUTES OF THE REGULAR COMMON COUNCIL MEETING OF OCTOBER 21, 2024

Present: Council President Arvis Dawson  
Council Members Brent Curry, LaTonya King, Aaron Mishler, Tonda Hines

Present  
Via WebEx: Dwight Fish

Absent: Alex Holtz, Chad Crabtree, David Henke

This meeting was made available to the public electronically through WebEx.

President Dawson called the meeting to order at 6:00 p.m. in the Council Chambers at City Hall, 229 S. Second Street, in Elkhart. All Council Members were present in Council Chambers with the exception of Councilman Fish who appeared via WebEx.

Ralph Spelbring led the assembly in the Pledge of Allegiance. President Dawson asked for a moment of silent reflection.

The clerk called the roll.

### APPROVAL OF MINUTES

President Dawson asked for a motion and second to approve the minutes from the September 21, 2024, Finance Of-The-Whole Committee.

Motion made by Councilman Mishler, second by Councilwoman Hines.

Due to a technical difficulty, Councilman Fish was seen, but could not be heard.

**By a vote of 5-0, the minutes were approved.**

President Dawson asked for a motion and second to approve the minutes from the October 7, 2024, Council meeting.

Motion made by Councilman Mishler, second by Councilwoman Hines.

Due to a technical difficulty, Councilman Fish was seen, but could not be heard.

**By a vote of 5-0, the minutes were approved.**



## **PRESENTATIONS AND INTRODUCTIONS**

Presentation begins at 44 minutes and 52 seconds of the audio recording.

**James Randolph, the Holliday Group** said he was here to give an update on the project on County Road 17 and U.S. 20, the Crossroads 41 Project. Over the last year, they are starting to work through their full set of construction drawings in order to bring this ordinance back in front of the council to get the Tax Increment Financing hereafter, TIF through the final stages. They have taken a look at the project again to finalize the programming and made some other changes. They will present the information that he brought on a flash drive when they bring the TIF back to the council. He would like to answer any questions about the project.

**Councilman Curry** asked what the time line was. **James Randolph** replied they are looking to get through the next eight (8) weeks to finish their construction set of drawings and to finalize everything with the architects and engineers so they can get permits. At that time, they will start working through their financing packages and work with the banks locally to secure the debt on the project. They are hoping to break ground in the first part of 2025. **Councilman Curry** asked will people be able to move in late in 2025. **James Randolph** replied ideally, they will have people ready to move in about 12 months after their start date. Then they will be phasing buildings out for the next 21 to 23 months after that.

Presentation ends at 47 minutes and 45 seconds of the audio recording.

## **UNFINISHED BUSINESS**

### **REPORTS OF COUNCIL COMMITTEES**

There were no reports of Council Committees.

### **ORDINANCES ON SECOND-THIRD READING**

#### ***Proposed Ordinance 24-O-40***

#### **AN ORDINANCE ADOPTING A SCHEDULE OF SALARIES AND OTHER COMPENSATION FOR THE FIRE DEPARTMENT OF THE CITY OF ELKHART, INDIANA, FOR THE CALENDAR YEAR 2025**

**President Dawson** asked the clerk to read the proposed ordinance by title only. He asked for a motion and second to adopt on second reading. Motion made by Councilman Curry, second by Councilwoman Hines.

**COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-38**

President Dawson opened council discussion starting at 48 minutes and 18 seconds of the audio recording.

There was no discussion.

**PUBLIC DISCUSSION ON PROPOSED ORDINANCE 24-O-38**

President Dawson opened the public discussion starting at 48 minutes and 24 seconds of the audio recording.

There was no public discussion.

**COUNCIL DISCUSSION ON PROPOSED ORDINANCE 24-O-38**

President Dawson returned the discussion to the council starting at 48 minutes and 34 seconds of the audio recording.

There was no further Council discussion.

President Dawson asked the clerk to do a roll call vote on second reading.

**AYES: Curry, King, Mishler, Fish, Hines, Dawson**

**NAYS:**

**By a vote of 6-0, the proposed ordinance passed on second reading.**

Motion for third and final reading made by Councilman Mishler, second by Councilwoman Hines.

President Dawson asked the clerk to read the proposed ordinance by title only and do a roll call vote.

**AYES: Curry, King, Fish, Mishler, Hines, Dawson**

**NAYS:**

**By a vote of 6-0, the proposed ordinance passed on third and final reading.**

Discussion on the proposed ordinance ends at 49 minutes and 29 seconds of the audio recording.

**ORDINANCES AND RESOLUTIONS REFERRED TO COMMITTEES**

There are no ordinances or resolutions referred to committees.

**TABLED ORDINANCES AND RESOLUTIONS**

*Proposed Ordinance 24-O-10*

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, AUTHORIZING THE ISSUANCE OF THE CITY OF ELKHART, INDIANA TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**

President Dawson stated this ordinance will remain tabled.

**ORDINANCES ON FIRST READING**

*Proposed Ordinance 24-O-41*

**AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA” AS AMENDED TO REZONE 203 N. NAPPANEE STREET, ELKHART, IN 46514, FROM R-2, ONE FAMILY DWELLING TO DISTRICT O, OFFICE DISTRICT**

President Dawson asked the clerk to read the proposed ordinance by title only. If there are no objections this will move to second reading.

There was no objection; proposed ordinance moved on to second reading.

*Proposed Ordinance 24-O-42*

**AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA” AS AMENDED, TO REZONE 2520 AND 2526 BYPASS ROAD, ELKHART, IN 46514, FROM M-1, LIMITED MANUFACTURING DISTRICT TO R-4, MULTIPLE FAMILY DWELLING**

President Dawson asked the clerk to read the proposed ordinance by title only. If there are no objections this will move to second reading.

There was no objection; proposed ordinance moved on to second reading.

*Proposed Ordinance 24-O-49*

**AN ORDINANCE ENACTING AND ADOPTING THE TWENTY-THIRD AND TWENTY-FOURTH SUPPLEMENTS TO THE CODE OF ORDINANCES FOR THE CITY OF ELKHART, INDIANA**

President Dawson asked the clerk to read the proposed ordinance by title only. If there are no objections this will move to second reading.

There was no objection; proposed ordinance moved on to second reading.

**RESOLUTIONS**

*Proposed Resolution 24-R-49*

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, AUTHORIZING THE TRANSFER OF NINETY THOUSAND DOLLARS (\$90,000.00) FROM THE LERNER THEATRE PERSONNEL CATEGORY TO THE OTHER SERVICES & CHARGES CATEGORY**

President Dawson asked the clerk to read the proposed resolution by title only. He asked for a motion and a second to adopt this resolution. Motion by Councilwoman Hines, second by Councilman Mishler.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 24-R-49**

President Dawson opened council discussion starting at 51 minutes and 37 seconds of the audio recording.

**Mike Huber, Director of Development Services**, said at a previous meeting they introduced Sherry May as the Interim General Manager at the Lerner Theatre. Also present at that meeting was Scott Welsh from Conway Entertainment Group. He said they have contracted with the city to find a full time permanent General Manager for the Lerner Theatre. This is a request to provide funding that is within the current Lerner budget. The Conway Entertainment Group and Sherry May were always intended to be a team in terms of the scope of Ms. May's contract as well as, looking to support Ms. May in both the analysis of the operating model and to help identify and maximize any and all revenue alternatives that may be opportunities at the Lerner. And also to leverage their industry contacts in the development and facilitation of a full 2025 programming calendar and support the new permanent General Manager when that person is identified and help that person transition into that role based on their work here on the operating model and working with Ms. May. This is the contract they have anticipated in conjunction with Ms. May's contract. The Conway Entertainment Group found her so fast that they were able to get her in and get her secured first. This is a six (6) month contract. They are not asking for new dollars to be brought, this is money that is within the Lerner budget currently. They are just asking to move the money to be able to fund the contract.

**Councilman Mishler** said he is looking forward to seeing them work together to move the Lerner to the next phase. He asked if they would see another resolution in front of the council in five (5) months when this one runs out. **Mike Huber** replied this is anticipating to be inclusive, they were hoping to find a suitable candidate within the first 90 to 120 days and then take the remainder of the contract, to be able to help with the transition.

**PUBLIC DISCUSSION ON PROPOSED RESOLUTION 24-R-49**

President Dawson opened the public discussion starting at 54 minutes and 47 seconds of the audio recording.

There was no public discussion.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 24-R-49**

President Dawson opened council discussion starting at 54 minutes and 54 seconds of the audio recording.

There was no further Council discussion.

President Dawson asked the clerk to do a roll call vote.

**AYES: Curry, King, Mishler, Fish, Hines, Dawson**  
**NAYS:**

**By a vote of 6-0, the proposed resolution passed.**

Discussion on the proposed ordinance ends at 55 minutes and 10 seconds of the audio recording.

*Proposed Resolution 24-R-50*

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, DECLARING A CERTAIN AREA TO BE AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE IN BENEFITS TO CONSOLIDATED METALS, INC.\WESTWOOD MANOR**

President Dawson asked the clerk to read the proposed resolution by title only. He asked for a motion and a second to adopt the resolution. Motion by Councilman Mishler, second by Councilwoman Hines.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 24-R-50**

President Dawson opened council discussion starting at 55 minutes and 36 seconds of the audio recording.

**Drew Wynes, Economic Development**, said Consolidated Metals, Inc., hereafter CMI, is a manufacturer of steel tubing with production capabilities for a wide variety of tubing sizes, shapes and gauges. This project involves a \$625,000.00 investment in existing building improvements, following the purchase of 3504 Cooper Drive, which will be CMI's new headquarters. CMI's personal property investment includes a \$9,125,500.00 investment in steel mills. This is an advanced manufacturing project that renovates a facility that is over 25 years

old. They recommend a five (5) year real property and five (5) year personal property tax phase in. This project is projected to create 30 new jobs with an average annual wage of \$50,981.00.

**PUBLIC DISCUSSION ON PROPOSED RESOLUTION 24-R-50**

President Dawson opened the public discussion starting at 56 minutes and 52 seconds of the audio recording.

There was no public discussion.

**COUNCIL DISCUSSION ON PROPOSED RESOLUTION 24-R-50**

President Dawson opened council discussion starting at 56 minutes and 58 seconds of the audio recording.

**Councilman Mishler** asked about the average salary of \$50,981.00 for the 30 positions and questioned if that figure was \$25 to \$26 dollars an hour? **Drew Wynes** replied that sounds correct and he would defer to the company to talk about company specific details. **Councilman Mishler** replied that was his only question and the company fits into the matrix. Mike Huber had answered the other questions that he had earlier.

President Dawson asked the clerk to do a roll call vote.

**AYES: Curry, King, Mishler, Fish, Hines, Dawson**

**NAYS:**

**By a vote of 6-0, the proposed resolution passed.**

Discussion on the proposed ordinance ends at 58 minutes and 03 seconds of the audio recording.

**VACATION HEARINGS**

There are no vacation hearings.

**OTHER NEW BUSINESS**

President Dawson opened the discussion starting at 58 minutes and 06 seconds of the audio recording.

President Dawson said he would like to ask the Public Works and Improvement Committee to talk with the Parks Department Superintendent regarding the strategic plan they have for the Parks Department so that can be presented to the committee in order for the Council to understand where they are in moving forward. He said Councilman Fish is the chairman of that committee and he asked him to coordinate that meeting and to let the council know when the meeting will be held.

New Business discussion ended at 58 minutes and 37 seconds of the audio recording.

**REPORTS OF MAYOR, BOARD OF WORKS, BOARD OF SAFETY OR CITY  
DEPARTMENTS**

There were no reports.

**NEIGHBORHOOD ASSOCIATION REPORTS**

President Dawson opened the Neighborhood Association Reports starting at 58 minutes and 47 seconds of the audio recording.

**Councilwoman King** said October 29, 2024, at 6 p.m. they are having a meeting in regards to Ullery Park. It will be at the Hope Fellowship Church, 1618 South 6<sup>th</sup> Street. They will talk about changes to Ullery Park. They want people to share their ideas and to meet the park staff. If they have questions they can call 574-295-7275. They will be passing out flyers in the community to bring awareness to the meeting and they look forward to seeing everyone there.

Neighborhood Association reports ends at 59 minutes and 48 seconds of the audio recording.

**PRIVILEGE OF THE FLOOR**

Privilege of the floor begins at 59 minutes and 52 seconds of the audio recording.

**Ralph Spelbring** said he heard the Obama Center will open in Chicago in 2026. Chicago has hosted 25 conventions. The following television stations are celebrating their 70<sup>th</sup> year in broadcasting, WISH 8 in Indianapolis and WTHI in Terre Haute. WNIT is celebrating 50 years in broadcasting this year. He wanted everyone to know that Indiana University is having the best football season since 1967.

Privilege of the floor ends at 1 hour, 01 minute and 39 seconds of the audio recording.

**SCHEDULING OF COMMITTEE MEETINGS**

There are no committee meetings.

**ACCEPTANCE OF COMMUNICATIONS**

Minutes of September 10, 2024 – Aurora Capital Development Corporation  
Minutes of September 24, 2024 – Board of Public Safety  
Minutes of October 1, 2024 – Board of Public Works  
Minutes of September 10, 2024 – Elkhart Redevelopment Commission  
Minutes of September 11, 2024 – Lerner Theatre Board

President Dawson asked for a motion to approve the communications. Motion made by Councilman Curry, second by Councilwoman Hines.

President Dawson asked the clerk to do a roll call vote.

**AYES: Curry, King, Mishler, Fish, Hines, Dawson**

**NAYS:**

**By a vote of 6-0, the Acceptance of Communications passed.**

## **ADJOURNMENT**

President Dawson asked for a motion to adjourn. Motion made by Councilwoman Hines, second by Councilman Mishler.

President Dawson asked the clerk to do a roll call vote.

**AYES: Curry, King, Mishler, Fish, Hines, Dawson**

**NAYS:**

**By a vote of 6-0, the meeting was adjourned.**

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Debra D. Barrett, Elkhart City Clerk

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Arvis L. Dawson  
President of the Elkhart City Council



**Rod Roberson**  
*Mayor*

**Michael Huber**  
*Director of Development Services*



**Development Services**  
*Community Development*  
*Economic Development*  
*Planning Services*  
*Redevelopment*  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

**DATE:** October 11, 2024

**TO:** City of Elkhart Common Council

**FROM:** Michael Huber, Director of Development Services

**RE:** Rezoning request for 203 N Nappanee Street – (20-05-01-427-007.000-006)

At its regular meeting on Monday, October 7, 2024, the Plan Commission recommended approval of Petition 24-Z-06. The Plan Commission provided a 'Do Pass' recommendation on to the Common Council by a vote of 8-0.

One condition was added at the meeting - Cross access is established between the parking lots so there are egress and ingress options.

The petitioner, J Arms, LLC, has requested to rezone the building at 203 N. Nappanee Street. The .64 acre parcel is currently a single family dwelling and the adjacent medical building will use the site for storage and meeting space. The rezoning to O, Office District from R-2, One Family Dwelling District will allow the structure to match the use and zoning district.

October 14, 2024

The Common Council  
City of Elkhart  
Elkhart, IN 46516

**RE: Petition 24-Z-06**  
203 N Nappanee Street; Parcel 20-05-01-427-007.000-006

Dear Council Members:

This letter certifies that the Elkhart City Plan Commission at its regular meeting on **Monday, October 7, 2024**, heard the above petition as prescribed by Per Section 29.11.B, Map Amendments, a request to rezone 203 N. Nappanee Street (05-01-427-007) from R-2, One Family Dwelling District to O, Office District.

The Plan Commission **voted 8 to 0 in favor** of this rezoning petition and thus it is sent to the Common Council with a "Do Pass" recommendation with a condition: **Cross access is established between the parking lots so there are egress and ingress options.**

Sincerely,

Carla Lipsey  
Plan Commission Recording Secretary

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA” AS AMENDED, TO REZONE 203 N. NAPPANEE STREET, ELKHART, IN 46514, FROM R-2, ONE FAMILY DWELLING DISTRICT TO O, OFFICE DISTRICT.**

WHEREAS, on July 20, 1998, the Common Council of the City of Elkhart, Indiana (the “Common Council”) adopted Ordinance No. 4370 (the “Zoning Ordinance of the City of Elkhart, Indiana”), creating the zoning map that established the zoning districts for all real estate located within the corporate boundaries of the City of Elkhart (commonly referred to as the “Zoning Map”); and

WHEREAS, the real estate located at 203 N. Nappanee Street, Elkhart, IN 46514 (the “Real Estate”), is zoned R-2, One Family Dwelling District; and

WHEREAS, the owner of the Real Estate petitioned the Elkhart City Plan Commission, requesting an amendment to the Zoning Map to allow for use as office space; and

WHEREAS, the intended use of the Real Estate is not a permitted use, unless the subject Real Estate is rezoned from R-2, One Family Dwelling District to O, Office District, and thereby allowing the owner’s intended use; and

WHEREAS, the rezoning, as petitioned, remains compatible with the adjacent properties and reflects responsible growth and development; and

WHEREAS, on October 7, 2024, the Elkhart City Plan Commission conducted a public hearing on the petition to amend the Zoning Map for the purpose stated herein and voted to forward to this Council, the Commission’s “Do Pass” recommendation.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA that

Section 1. The zoning map created pursuant to and incorporated into Ordinance No. 4370, as amended, the Zoning Ordinance of the City of Elkhart, Indiana, is hereby further amended to rezone from R-2, One Family Dwelling District to O, Office District, the following real estate, located in the City of Elkhart, County of Elkhart, State of Indiana, and more fully described in the Exhibit A attached to this Ordinance.

Section 2. Conditions of Rezoning. This amendment and rezoning shall not take effect unless the following condition is satisfied:

- A. Cross access is established between the parking lots so there are egress and ingress options.

Section 3. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council.

*[Balance of page is intentionally blank.]*

**Exhibit A**  
**Description of Real Property**

**Address(s):**

203 N. Nappanee Street, Elkhart IN 46514

**Parcel Identification Number(s):**

20-05-01-427-007.000-006

**Legal Description:**

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION ONE (1), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FOUR (4) EAST CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION SIX (6), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION ONE (1), FIVE HUNDRED SIXTEEN AND SIXTY-FOUR HUNDREDTHS (516.64) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH EIGHTY-EIGHT (88) FEET; THENCE SOUTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES WEST, THREE HUNDRED THIRTY (330) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-EIGHT (88) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES EAST, THREE HUNDRED THIRTY (330) FEET TO THE PLACE OF BEGINNING.

EXPECTING THEREFROM THE FOLLOWING:

A PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, ELKHART COUNTY INDIANA AND THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 5 EAST DESIGNATED AS POINT "20" ON SAID PLAT; THENCE SOUTH 0 DEGREES 17 MINUTES 18 SECONDS WEST 516.64 FEET ALONG THE EAST LINE OF SAID SECTION 1 TO THE PROLONGED NORTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 37.50 FEET ALONG THE PROLONGATION OF SAID NORTH LINE TO THE WEST BOUNDARY OF S.R.19 PER DEED RECORD 218, PAGE 435 (OFFICE OF RECORDER OF ELKHART COUNTY) AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0 DEGREES 06 MINUTES 48 SECONDS WEST 88.00 FEET ALONG THE BOUNDARY OF SAID S.R.19 TO THE SOUTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 14.90 FEET ALONG SAID SOUTH LINE; THENCE NORTH 0 DEGREES 06 MINUTES 48 SECONDS EAST 77.85 FEET TO THE POINT DESIGNATED AS "297" ON SAID PLAT; THENCE NORTH 13 DEGREES 55 MINUTES 23 SECONDS WEST 10.47 FEET TO THE NORTH LINE OF THE GRANTOR'S LAND THENCE SOUTH 89 DEGREES 42 MINUTES 42 SECONDS EAST 17.44 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.030 ACRES, MORE OR LESS.

So ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor for the City of Elkhart

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk



# Staff Report

## Planning & Zoning

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**Petition:** 24-Z-06

**Petition Type:** Rezoning

**Date:** October 7, 2024

**Petitioner:** J Arms, LLC

**Site Location:** 203 N Nappanee Street; Parcel 20-05-01-427-007.000-006

**Request:** Per Section 29.11.B, Map Amendments, a request to rezone 203 N. Nappanee Street (05-01-427-007) from R-2, One Family Dwelling District to O, Office District.

**Parcel I.D. Number(s):** 20-05-01-427-007.000-006

**Existing Zoning:** R-2, One Family Dwelling District

**Size:** +/- .64 Acres

**Thoroughfares:** N. Nappanee Street

**School District:** Elkhart Community Schools

**Utilities:** Available to site

**Surrounding Land Use & Zoning:**

The property is located amongst a mix of medical office uses zoned O, Office District with O, Office and R-2, One Family Dwelling District zoning and uses to the east across Nappanee Street. The land to the west is the school zoned R-2, One Family Dwelling District.

**Applicable Sections of the Zoning Ordinance:**

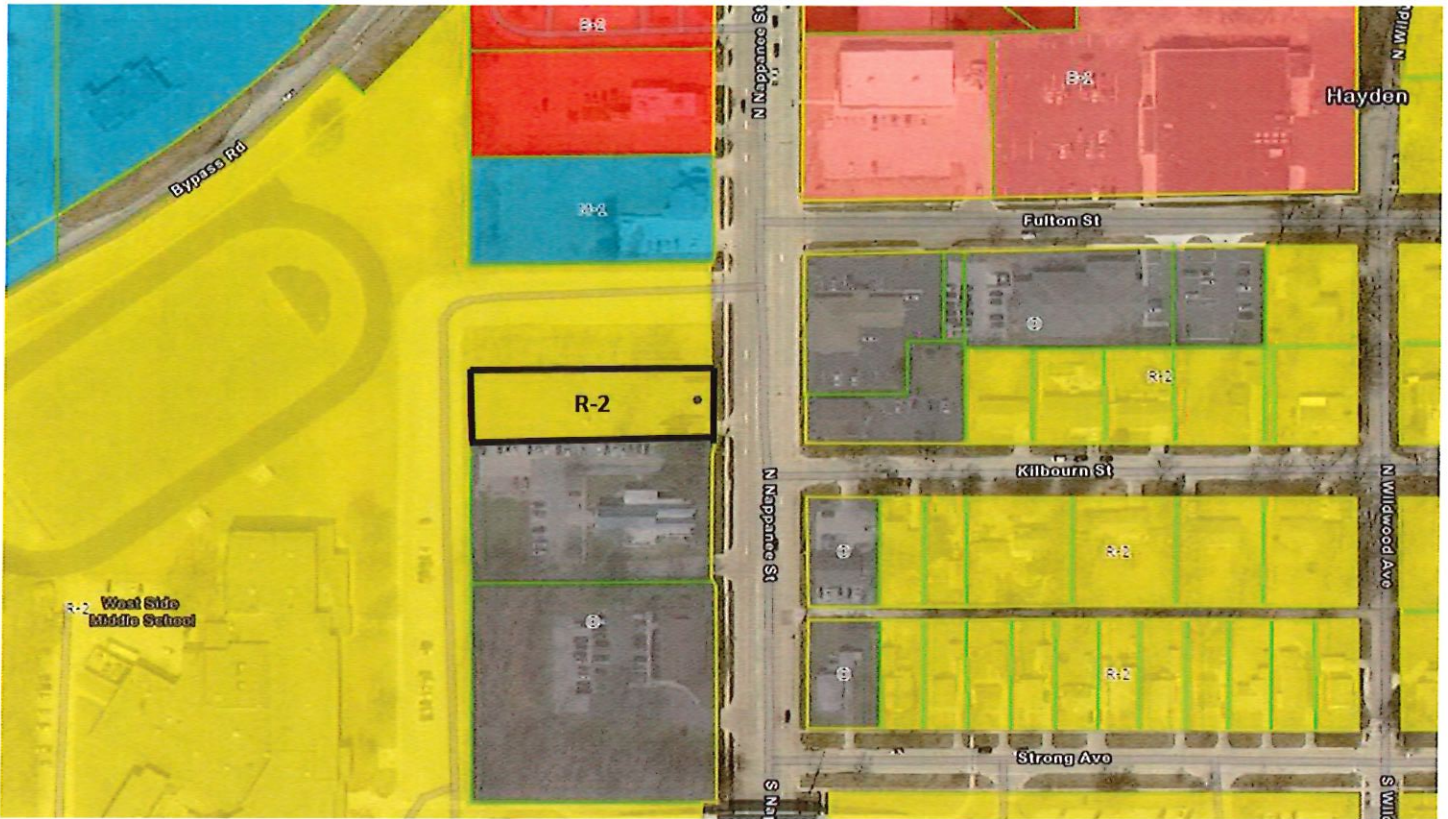
See enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan calls for this area to be developed with commercial uses.

**Plan Commission Action:** Recommendation to Common Council.





## Staff Analysis

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The petitioner is requesting a rezoning from R-2, One Family Dwelling District to O, Office District. The single family dwelling in directly north of the petitioner's medical practice. The property is used as overflow conference space as well as storage.

Staff supports the request and looks at it this way. The Office District reflects what and how the structure is being used. With the amended zoning, it would also allow the petitioner to expand the medical practice to the north as a 'by right' project. The property sits among other Office District uses. There will be no outward change to the building.



# Recommendation

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The Staff recommends **approval** of the rezoning request based on the following findings of fact:

- 1) The proposed rezoning is compatible with the Future Land Use map, which calls for the area to be developed with commercial uses;
- 2) Current conditions and the character of current structures and uses in each district will not be impacted because the existing structure is being used as an office use and will blend well with the surrounding office uses;
- 3) The O, Office District does allow for the most desirable uses for which the land can be adapted;
- 4) The proposed rezoning will preserve the conservation of property values throughout the City because it is adjacent to other commercial uses;
- 5) The rezoning of the property to O, Office District is compatible with the surrounding properties and does reflect responsible growth and development, because the use of the property is no longer residential and the current usage of the site matches the Office District.

# Photos



# Attachments

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Petition, appeal letter, affidavit, and site plan.



**EXHIBIT "A"**  
**Legal Description**

**For APN/Parcel ID(s): 20-05-01-427-007.000-006**

**A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION ONE (1), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FOUR (4) EAST CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT A STONE AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION SIX (6), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION ONE (1), FIVE HUNDRED SIXTEEN AND SIXTY-FOUR HUNDREDTHS (516.64) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH EIGHTY-EIGHT (88) FEET; THENCE SOUTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES WEST, THREE HUNDRED THIRTY (330) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-EIGHT (88) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES EAST, THREE HUNDRED THIRTY (330) FEET TO THE PLACE OF BEGINNING.**

**EXCEPTING THEREFROM THE FOLLOWING:**

**A PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, ELKHART COUNTY, INDIANA AND THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 5 EAST DESIGNATED AS POINT "20" ON SAID PLAT; THENCE SOUTH 0 DEGREES 17 MINUTES 18 SECONDS WEST 516.64 FEET ALONG THE EAST LINE OF SAID SECTION 1 TO THE PROLONGED NORTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 37.50 FEET ALONG THE PROLONGATION OF SAID NORTH LINE TO THE WEST BOUNDARY OF S.R. 19 PER DEED RECORD 218, PAGE 435 (OFFICE OF THE RECORDER OF ELKHART COUNTY) AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0 DEGREES 06 MINUTES 48 SECONDS WEST 88.00 FEET ALONG THE BOUNDARY OF SAID S.R. 19 TO THE SOUTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 14.90 FEET ALONG SAID SOUTH LINE; THENCE NORTH 0 DEGREES 06 MINUTES 48 SECONDS EAST 77.85 FEET TO THE POINT DESIGNATED AS "297" ON SAID PLAT; THENCE NORTH 13 DEGREES 55 MINUTES 23 SECONDS WEST 10.47 FEET TO THE NORTH LINE OF THE GRANTOR'S LAND; THENCE SOUTH 89 DEGREES 42 MINUTES 42 SECONDS EAST 17.44 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.030 ACRES, MORE OR LESS.**

Date: 7/8/2024

To: Honorable Members of the Plan Commission and City Council

RE: Rezoning

The undersigned petitioner respectfully shows the Plan Commission and Council:

1. I, Roger Moore, am the owner of the following described real estate located within the City of Elkhart, East Cleveland Township, Elkhart County, State of Indiana, to wit:
  - a. Attached to this memo
2. The above described real estate presently has a zoning classification of R-2, One-Family Dwelling District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently proposes to occupy the above described property as an office location. Use the existing space as an office space for occasional conference meetings, document storage, and space for the occasional employee to work on site rather than remotely
4. J.Arms desires to rezone said real estate to Office District (O) for that purpose.
5. Standards:
  - a. **Comprehensive Plan:** Use the existing space as an office space for occasional conference meetings, document storage, and space for the occasional employee to work on site rather than remotely
  - b. **Current conditions:** The surrounding properties are zoned as Office district and maintain either traditional family dwelling home facades or have been converted into traditional office buildings. The building will align with the surrounding structures, preserving the existing space's condition and character without causing disruption.
  - c. **Desirable Use:** The most desirable use for this land would be Office District, given its accessibility from the main road and proximity to neighboring businesses.
  - d. **Conservation:** The property value will align with neighboring Office District businesses and is not expected to significantly impact surrounding property values.
  - e. **Responsibility:** The transition of this property from Residential to Office District will contribute to responsible growth and development in the area, especially since the majority of neighboring properties along this road are zoned for business use in the Office District or other business related zoning.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Plan Commission makes a do pass recommendation and the Council, after hearing, pass on appropriate ordinance rezoning the above described parcel of land located in the City of Elkhart.

Owner: J.Arms

Signature of Property Owner: *J.M.*  
Printed Name: Roger Moore

*J.M., President and Legal Representative*

Contact Person: Kaylee Janowski

Address: 22155 Westfork Drive, Edwardsburg MI 49112

Phone: 574.606.7050

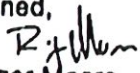
Email: kequity3@gmail.com

8/23/2024

**Designation of Representative**

I, Roger Moore, hereby designate Kaylee Janowski as the representative for my property located at 203 N Nappanee, Elkhart IN 46514, regarding all matters related to rezoning.

Signed,

  
Roger Moore

**Rod Roberson**  
*Mayor*

**Michael Huber**  
*Director of Development Services*



**Development Services**  
*Community Development*  
*Economic Development*  
*Planning Services*  
*Redevelopment*  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

**DATE:** October 11, 2024

**TO:** City of Elkhart Common Council

**FROM:** Michael Huber, Director of Development Services

**RE:** Rezoning request for 2520 and 2526 Bypass Road – (20-05-01-426-007.000-006 and 20-05-01-401-011.000-006)

At its regular meeting on Monday, October 7, 2024, the Plan Commission recommended approval of Petition 24-Z-07. The Plan Commission provided a 'Do Pass' recommendation on to the Common Council by a vote of 7-0 w/ one abstention.

The petitioner, R B Realty, LLC, has requested to rezone the former Skyline Complex. The 18.21 acre parcels are proposed to be redeveloped as multi-family housing. The plan calls for 138 units across three buildings. The rezoning to R-4, Multi Family Dwelling District from M-1, Limited Manufacturing District will allow the project to move forward.

This project also helps our community continue to address the shortage of residential dwelling units as highlighted in the Zimmerman Volk study. Currently the project is being designed to be accessible to the area's workforce, including those earning between 80-120% of the Area Median Income (AMI). The final layout for the project has not yet been finalized. However, the project will be required to be submitted for review at Technical Review and by the Building Department before permits are issued.



October 14, 2024

The Common Council  
City of Elkhart  
Elkhart, IN 46516

**RE: Petition 24-Z-07  
2520 and 2526 Bypass Road**

Dear Council Members:

This letter certifies that the Elkhart City Plan Commission at its regular meeting on **Monday, October 7, 2024**, heard the above petition as prescribed by Per Section 29.11.B, Map Amendments, a request to rezone 2520 and 2526 Bypass Road (05-01-426-007 and 05-01-401-011) from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District.

The Plan Commission **voted 7 to 0 w/ one abstention in favor** of this rezoning petition and thus it is sent to the Common Council with a "Do Pass" recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Carla Lipsey".

Carla Lipsey  
Plan Commission Recording Secretary



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING MAP CREATED PURSUANT TO ORDINANCE NO. 4370, THE “ZONING ORDINANCE OF THE CITY OF ELKHART, INDIANA” AS AMENDED, TO REZONE 2520 AND 2526 BYPASS ROAD, ELKHART, IN 46514, FROM M-1, LIMITED MANUFACTURING DISTRICT TO R-4, MULTIPLE FAMILY DWELLING DISTRICT.**

WHEREAS, on July 20, 1998, the Common Council of the City of Elkhart, Indiana (the “Common Council”) adopted Ordinance No. 4370 (the “Zoning Ordinance of the City of Elkhart, Indiana”), creating the zoning map that established the zoning districts for all real estate located within the corporate boundaries of the City of Elkhart (commonly referred to as the “Zoning Map”); and

WHEREAS, the real estate located at 2520 and 2526 Bypass Road, Elkhart, IN 46514 (the “Real Estate”), is zoned M-1, Limited Manufacturing District; and

WHEREAS, the owner of the Real Estate petitioned the Elkhart City Plan Commission, requesting an amendment to the Zoning Map to allow for construction of one hundred thirty-eight (138) apartments across three buildings; and

WHEREAS, the intended use of the Real Estate is not a permitted use, unless the subject Real Estate is rezoned from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District, thereby permitting the owner’s intended use; and

WHEREAS, the rezoning, as petitioned, remains compatible with the adjacent properties and reflects responsible growth and development; and

WHEREAS, on October 7, 2024, the Elkhart City Plan Commission conducted a public hearing on the petition to amend the Zoning Map for the purpose stated herein and voted to forward to this Council, the Commission’s “Do Pass” recommendation.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA that

Section 1. The zoning map created pursuant to and incorporated into Ordinance No. 4370, as amended, the Zoning Ordinance of the City of Elkhart, Indiana, is hereby further amended to rezone from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District, the following real estate, located in the City of Elkhart, County of Elkhart, State of Indiana, and more fully described in the Exhibit A attached to this Ordinance.

Section 2. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council.

*[Balance of page is intentionally blank.]*

**Exhibit A**

**Description of Real Property**

**Address(s):**

2520 and 2526 Bypass Road, Elkhart, IN 46514

**Parcel Identification Number(s):**

20-05-01-426-007.000-006

20-05-01-401-011.000-006

**Legal Description:**

TRACT I: A PART OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, SECOND PRINCIPAL MERIDIAN, CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1" IRON PIPE THAT IS 1212.7 FEET SOUTH AND 1.57 CHAINS WEST (103.62 FEET) OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE SOUTH 0 DEGREES 1 MINUTE 36 SECONDS WEST, A DISTANCE OF 916.80 FEET TO A POINT ON THE CENTERLINE OF INDIANA STATE HIGHWAY 112; THENCE SOUTH 89 DEGREES 26 MINUTES 0 SECONDS EAST ALONG SAID CENTERLINE, A DISTANCE OF 509 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING EAST ALONG SAID LINE, A DISTANCE OF 400 FEET; THENCE NORTH 0 DEGREES 0 MINUTES 36 SECONDS EAST, A DISTANCE OF 50 FEET TO AN IRON PIPE ON THE NORTH RIGHT-OF-WAY SAID INDIANA STATE HIGHWAY 112; THENCE SOUTH 89 DEGREES 26 MINUTES 0 SECONDS EAST ALONG SAID NORTH RIGHT-OF-WAY, A DISTANCE OF 100.40 FEET TO AN IRON REBAR WITH CAP (DORIOT #890028); THENCE NORTH 0 DEGREES 54 MINUTES 22 SECONDS EAST, A DISTANCE OF 768.10 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1; CONTINUING NORTH ALONG SAID LINE, A DISTANCE OF 107.31 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 2 SECONDS WEST, A DISTANCE OF 514.07 FEET TO AN IRON PIPE; THENCE SOUTH 0 DEGREES 0 MINUTES 36 SECONDS WEST, A DISTANCE OF 107.30 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE CONTINUING SOUTH ALONG SAID LINE, A DISTANCE OF 813.80 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED TRACT CONTAINING 10.63 ACRES, MORE OR LESS.

EXCEPTING THEREFROM: A PART OF THAT TRACT OF LAND CONVEYED TO SKYLINE CORPORATION, AS DESCRIBED IN DEED RECORD 97-000017, ELKHART COUNTY RECORDER, AND LYING IN SECTION 1, TOWNSHIP 37 NORTH RANGE 4 EAST, CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1" IRON PIPE THAT IS 1212.7 FEET SOUTH AND 1.57 CHAINS WEST (103.62 FEET) OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1 (RECORD DIMENSION PER SAID SKYLINE CORPORATION LAND); THENCE SOUTH 0°01'36" WEST, A DISTANCE OF 916.80 FEET TO A POINT ON THE CENTERLINE OF INDIANA STATE HIGHWAY 112

(RECORD DIMENSION PER SAID SKYLINE CORPORATION LAND); THENCE SOUTH 89'26'00" EAST ALONG SAID CENTERLINE, A DISTANCE OF 509.00 FEET (RECORD DIMENSION PER SAID SKYLINE CORPORATION LAND) TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND BEING THE SOUTHWEST CORNER OF SAID SKYLINE CORPORATION LAND; THENCE NORTH 89'25'06" EAST ALONG SAID CENTERLINE 400.00 FEET; THENCE NORTH 01 '08'18" EAST 50.00 FEET TO AN IRON PIPE ON THE NORTH RIGHT-OF-WAY LINE OF SAID INDIANA STATE HIGHWAY 112; THENCE NORTH 89'25'06" EAST ALONG SAID NORTH RIGHT-OF-WAY 100.40 FEET TO AN IRON REBAR WITH CAP (DORIOT #890028) MARKING THE SOUTHEAST CORNER OF SAID SKYLINE CORPORATION LAND; THENCE NORTH 00 14'32" WEST 603.5 FEET, PASSING A REBAR WITH CAP (MUSSEY #9700002) AT 597.00 FEET, TO THE EDGE OF WATER; THENCE NORTHWESTERLY, ALONG THE SOUTHERLY EDGE OF WATER, 506 FEET TO A POINT LYING NORTH 01 '08'18" WEST 925.63 FEET AND NORTH 89'18'14" EAST 94.23 FEET FROM THE POINT OF BEGINNING AND BEING ON A LINE 107.3 FEET NORTHERLY OF THE EAST-WEST HALF SECTION LINE OF SAID SECTION 1; THENCE SOUTH 89'18'14" WEST 94.23 FEET TO A REBAR WITH CAP (MUSSEY #9700002) MARKING THE NORTHWEST CORNER OF SAID SKYLINE CORPORATION LAND; THENCE SOUTH 01 '08'18" EAST 925.63 FEET TO THE POINT OF BEGINNING. CONTAINING 9.11 ACRES MORE OR LESS.

TRACT II: A PART OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, SECOND PRINCIPAL MERIDIAN, CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1" IRON PIPE THAT IS 1212.7 FEET SOUTH AND 1.57 CHAINS WEST (103.62 FEET) OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE SOUTH 0 DEGREES 1 MINUTE 36 SECONDS WEST, A DISTANCE OF 916.80 FEET TO A POINT ON THE CENTERLINE OF INDIANA STATE HIGHWAY 112; THENCE SOUTH 89 DEGREES 26 MINUTES 0 SECONDS EAST ALONG SAID CENTERLINE, A DISTANCE OF 509 FEET TO A POINT; THENCE CONTINUING EAST ALONG SAID LINE AND CENTERLINE, A DISTANCE OF 400 FEET TO A POINT; THENCE NORTH 0 DEGREES 0 MINUTES 36 SECONDS EAST, A DISTANCE OF 50 FEET TO AN IRON PIPE ON THE NORTH RIGHT-OF-WAY OF SAID INDIANA STATE HIGHWAY 112; THENCE SOUTH 89 DEGREES 26 MINUTES 0 SECONDS EAST ALONG SAID NORTH RIGHT-OF-WAY, A DISTANCE OF 100.40 FEET TO AN IRON REBAR WITH CAP (DORI OT #890028) AT THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING EAST ALONG SAID LINE AND NORTH RIGHT-OF-WAY, A DISTANCE OF 77.10 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 1632.71 FEET, A CENTRAL ANGLE OF 32 DEGREES 40 MINUTES 36 SECONDS, AND A CHORD OF 918.61 FEET BEARING NORTH 76 DEGREES 2 MINUTES 38 SECONDS EAST; THENCE EAST ALONG SAID CURVE, A DISTANCE OF 931.18 FEET TO AN IRON REBAR WITH CAP (DORI OT #890028); THENCE NORTH 0 DEGREES 36 MINUTES 53 SECONDS EAST, A DISTANCE OF 545.86 FEET TO AN IRON PIPE ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE NORTH 89 DEGREES 55 MINUTES 2 SECONDS WEST ALONG SAID NORTH LINE, A DISTANCE OF 546.49 FEET TO A POINT; THENCE DUE NORTH, A DISTANCE OF 107.30 FEET TO A POINT; THENCE NORTH 89 DEGREES 55 MINUTES 2 SECONDS WEST, A DISTANCE OF 414.11 FEET TO A POINT; THENCE SOUTH 0 DEGREES 54 MINUTES 22 SECONDS WEST, A DISTANCE OF 107.31 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE CONTINUING SOUTH ALONG SAID LINE, A DISTANCE OF 768.10 FEET TO THE POINT OF BEGINNING. CONTAINING 16.69 ACRES, MORE OR LESS.

So ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor for the City of Elkhart

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk



# Staff Report

## Planning & Zoning

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**Petition:** 24-Z-07

**Petition Type:** Rezoning

**Date:** October 7, 2024

**Petitioner:** R B Realty, LLC

**Site Location:** 2520 and 2526 Bypass Road

**Request:** Per Section 29.11.B, Map Amendments, a request to rezone 2520 and 2526 Bypass Road (05-01-426-007 and 05-01-401-011) from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District.

**Parcel I.D. Number(s):** 20-05-01-426-007.000-006 and 20-05-01-401-011.000-006

**Existing Zoning:** M-1, Limited Manufacturing District

**Size:** +/- 18.21 Acres

**Thoroughfares:** Bypass Road

**School District:** Elkhart Community Schools

**Utilities:** Available to site

**Surrounding Land Use & Zoning:**

The land to the east is zoned M-1 with older industrial and automotive uses. Land to the west is a residential care facility zoned Planned Unit Development. Land to the south is R-2, a middle school. The land to the north is a gravel pit pond.

**Applicable Sections of the Zoning Ordinance:**

See enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan calls for this area to be developed with commercial uses.

**Plan Commission Action:** Recommendation to Common Council.





## Staff Analysis

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The petitioner is requesting a rezoning from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District with the intent of constructing 138 apartments across three buildings. The site is located on the north side of Bypass Road. It is directly across the street from West Side Middle School and within three blocks of Mary Daly Elementary School – allowing for any children in the development the opportunity to walk to school.

Long established as an industrial corridor, the uses along Bypass Road over time have changed and become far less intense. Over the last 10-15 years, new business investment and land redevelopment have evolved this segment of Bypass Road, including the introduction of senior living, and are helping to transform it into a more vibrant commercial gateway. This primary street into Elkhart will continue to transform as more commercial investment occurs. These residential units will support the existing and newer businesses in the area and the community.

The Boiling Eye Center at the west end of the corridor, the Tom Naquin and Harold Ziegler new car showrooms, the Hellenic Senior Living Center and to the east at Nappanee Street, the new commercial center with Jimmy Johns, Dunkin Donuts and I Heart Mac and Cheese - are examples of new and existing commercial businesses that have invested along the corridor.

This project also helps our community continue to address the shortage of residential dwelling units as highlighted in the Zimmerman Volk study. Currently the project is being designed to be accessible to the area's workforce, including those earning between 80-120% of the Area Median Income (AMI). The final layout for the project has not yet been finalized. However, the project will be required to be submitted for review at Technical Review and by the Building Department before permits are issued. The project will also be required to submit a minor subdivision to establish new lots of record.

This rezoning request activates land that was formerly the Skyline Corporate Headquarters. A core component of the project includes the transition of the former Headquarters building into residential apartments, along with construction of new units. Skyline Industries and its founder have a strong legacy in the City of Elkhart and in honor of company founder and former CEO, Art Decio, the project will be known as Decio Park.

# Recommendation

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The Staff recommends **approval** of the rezoning request based on the following findings of fact:

- 1) The proposed rezoning is compatible with the Future Land Use map, which calls for the area to be developed with commercial uses;
- 2) Current conditions and the character of current structures and uses in each district will not be impacted because the proposed multifamily development will blend well with the surrounding commercial uses;
- 3) The R-4 District does allow for the most desirable uses for which the land can be adapted;
- 4) The proposed rezoning will preserve the conservation of property values throughout the City because the redevelopment as multifamily residential will complement the existing commercial uses in the area and represents a significant investment in a property that has been vacant for a number of years;
- 5) The rezoning of the property to R-4, Multi Family Dwelling District is compatible with the surrounding properties and does reflect responsible growth and development as this use will help our community address the housing shortage and will activate a former corporate headquarters with quality redevelopment.



# Photos

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## Attachments

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Petition, appeal letter, affidavit, and site plan.



PETITION #: 24-2-07

FILING FEE: \$ 400 -

### PETITION to the PLAN COMMISSION

**PETITION TYPE: REZONING**

This action requires final approval from the Common Council

Property Owner(s): R B Realty LLC

Mailing Address: 2746 Old US 20 W Ste. B

Phone #: 800-283-8393 Email: h.boling@bolingvisioncenter.com

Contact Person: Danch, Harner & Associates - Attn: Angela Smith

Mailing Address: 1643 Commerce Drive; South Bend, IN 46628

Phone #: 574-234-4003 Email: asmith@danchharner.com

**Subject Property Address:** 2520 and 2526 Bypass Road

Zoning: Rezone from M1 to R4

Present Use: vacant Proposed Use: Multi-family residential

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): R B Realty LLC - Hayley Boling, CEO

SIGNATURE(S):  DATE: 8/29/2024

**STAFF USE ONLY:**

Staff Checklist for the applicant's submittal of a complete Petition to the Plan Commission docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 25 copies must be submitted.
- Any other information listed in the Instructions and Filing Procedure for this type of Petition.

Ordinance Requirement: Section(s): \_\_\_\_\_

Map #: \_\_\_\_\_ Area: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

## LEGAL DESCRIPTION

TRACT I: A part of Section 1, Township 37 North, Range 4 East, Second Principal Meridian, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1; thence South 0 degrees 1 minute 36 seconds West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said centerline, a distance of 509 feet to the point of beginning of this description; thence continuing East along said line, a distance of 400 feet; thence North 0 degrees 0 minutes 36 seconds East, a distance of 50 feet to an iron pipe on the North right-of-way said Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said North right-of-way, a distance of 100.40 feet to an iron rebar with cap (Doriot #890028); thence North 0 degrees 54 minutes 22 seconds East, a distance of 768.1 0 feet to a point on the North line of the Southeast Quarter of said Section 1; continuing North along said line, a distance of 107.31 feet; thence North 89 degrees 55 minutes 2 seconds West, a distance of 514.07 feet to an iron pipe; thence South 0 degrees 0 minutes 36 seconds West, a distance of 107.30 feet to a point on the North line of the Southeast Quarter of said Section 1; thence continuing South along said line, a distance of 813.80 feet to the point of beginning; said described tract containing 10.63 acres, more or less.

EXCEPTING THEREFROM: A part of that tract of land conveyed to Skyline Corporation, as described in Deed Record 97-000017, Elkhart County Recorder, and lying in Section 1, Township 37 North, Range 4 East, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1 (record dimension per said Skyline Corporation land); thence South 0°01'36" West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112 (record dimension per said Skyline Corporation land); thence South 89°26'00" East along said centerline, a distance of 509.00 feet (record dimension per said Skyline Corporation land) to the Point of Beginning of this description and being the southwest corner of said Skyline Corporation land; thence North 89°25'06" East along said centerline 400.00 feet; thence North 01°08'18" East 50.00 feet to an iron pipe on the north right-of-way line of said Indiana State Highway 112; thence North 89°25'06" East along said north right-of-way 100.40 feet to an iron rebar with cap (Doriot #890028) marking the southeast corner of said Skyline Corporation land; thence North 0°14'32" West 603.5 feet, passing a rebar with cap (Musser #9700002) at 597.00 feet, to the edge of water; thence northwesterly, along the southerly edge of water, 506 feet to a point lying North 01°08'18" West 925.63 feet and North 89°18'14" East 94.23 feet from the point of beginning and being on a line 107.3 feet northerly of the East-West Half Section line of said Section 1; thence South 89°18'14" West 94.23 feet to a rebar with cap (Musser #9700002) marking the northwest corner of said Skyline Corporation land; thence South 01°08'18" East 925.63 feet to the point of beginning. Containing 9.11 acres more or less.

TRACT II: A part of Section 1, Township 37 North, Range 4 East, Second Principal Meridian, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1; thence South 0



degrees 1 minute 36 seconds West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said centerline, a distance of 509 feet to a point; thence continuing East along said line and centerline, a distance of 400 feet to a point; thence North 0 degrees 0 minutes 36 seconds East, a distance of 50 feet to an iron pipe on the North right-of-way of said Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said North right-of-way, a distance of 100.40 feet to an iron rebar with cap (DORI OT #890028) at the point of beginning of this description; thence continuing East along said line and North right-of-way, a distance of 77.10 feet to the point of curvature of a non-tangent curve, concave to the North, having a radius of 1632.71 feet, a central angle of 32 degrees 40 minutes 36 seconds, and a chord of 918.61 feet bearing North 76 degrees 2 minutes 38 seconds East; thence East along said curve, a distance of 931.18 feet to an iron rebar with cap (DORI OT #890028); thence North 0 degrees 36 minutes 53 seconds East, a distance of 545.86 feet to an iron pipe on the North line of the Southeast Quarter of said Section 1; thence North 89 degrees 55 minutes 2 seconds West along said North line, a distance of 546.49 feet to a point; thence due North, a distance of 107.30 feet to a point; thence North 89 degrees 55 minutes 2 seconds West, a distance of 414.11 feet to a point; thence South 0 degrees 54 minutes 22 seconds West, a distance of 107.31 feet to a point on the North line of the Southeast Quarter of said Section 1; thence continuing South along said line, a distance of 768.10 feet to the point of beginning. Containing 16.69 Acres, more or less.



DATE: August 29, 2024

TO: Honorable Members of the Plan Commission  
and City Council  
City of Elkhart, Indiana

RE: Rezoning

The undersigned petitioner respectfully shows the Plan Commission and Council:

1. I, authorized agent of R B Realty Inc, am the owner of the following described real estate located within the City of Elkhart, Cleveland Township, Elkhart County, State of Indiana, to wit:  
  
(see attached)
2. The above-described real estate presently has a zoning classification of M-1 Limited Manufacturing District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner proposes to occupy the above-described property in the following manner:  
Multi-family residential development with associated community center, leasing offices, and childcare facility.
4. Petitioner desire to rezone said real estate to R-4 Multiple Family Dwelling District for that purpose.
5. The following criteria support the petition request:

The Comprehensive Plan: The proposed rezoning is generally compliant with the Comprehensive Plan. The Future Land Use map identifies this area as Commercial. Multi-family developments of medium to high density are compatible with commercial designations and often considered commercial for building and fire safety perspectives. In additional to the multi-family residential units, the proposed development consists of community gathering space, daycare, and associated offices. All uses consistent with the commercial land use designation. Future phases hope to incorporate vital commercial uses to support the development.

The Comprehensive Plan also highlights the need for new housing in the City to provide opportunities for diverse ages, income levels, and stages of life. The proposed development would serve as a positive addition to the City with traditional apartment style living that could serve as a much needed affordable option for residents. Future phases of the project could address the transition to ownership-based opportunities. The proximity to the assisted living facility to the west would also create an opportunity for multi-generational families to live in close proximity to each other and foster the long lasting support that communities like Elkhart are striving to achieve.

Current conditions and the character of current structures and uses in each district: The current characteristic of Bypass Road is a mix of institutional and low intensity commercial and industrial uses. As industrial development has moved to other areas of the City where transportation and land are butter suited for the use, Bypass Road h as become an opportunity for redevelopment for less intense uses such as commercial, multi-family residential and institutional uses. With



assisted living immediately to the west and a school located across the street, this site is well suited for a multi-family residential development.

The most desirable use for which the land in each district is adapted: The most desirable use of the land is one that is compatible with the adjacent multi-family residential and institutional uses of the area. Medium density multi-family is desirable use because of the location along a public transportation route and close proximity to schools and shopping. The north side of Bypass Road offers a unique opportunity to retain a park-like setting that takes advantage of the natural beauty of the adjacent lake and serves as a buffer from the more intense commercial uses nearby.

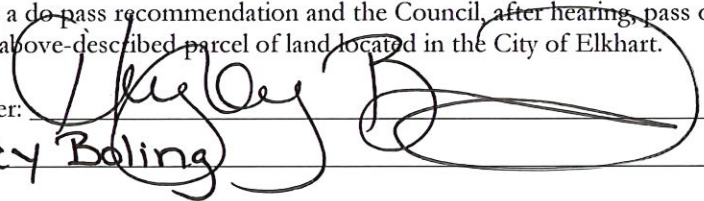
The conservation of property values throughout the jurisdiction: The proposed use is situated on a large parcel with ample room for adequate parking, active open space, and accessory services to support the proposed multi-family development. The reuse of the existing building and compatible building design of the proposed buildings will help preserve the property values throughout. The increased availability of affordable residential units will serve the community as a whole and support the increased demand for house within the City limits.

Responsible growth and development: It is responsible development and growth to ensure adequate housing is available to serve the increased demand in the area. Developing multi-development housing with the existing City limits ensure the available of proper infrastructure to serve the demand. The proposed sites location on a transportation

WHEREFOR, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Plan Commission make a do pass recommendation and the Council, after hearing, pass on appropriate ordinance rezoning for the above-described parcel of land located in the City of Elkhart.

Signature of Property Owner: \_\_\_\_\_

Printed Name: \_\_\_\_\_

  
Hayley Boling

Contact Person: Danch, Harner & Associate - Attn: Angela M. Smith

Address: 1643 Commerce Drive; South Bend, IN 46628

Phone Number where I can be reached: (574) 234-4003

Email: asmith@danchharner.com





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## MEMORANDUM

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**DATE:** October 16, 2024

**TO:** Common Council

**FROM:** Corporation Counsel John M. Espar

**RE:** Proposed Ordinance No. 24-O-43  
Enacting and Adopting Two Supplements of the Code of Ordinances for the City of Elkhart, Indiana.

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Proposed Ordinance No. 24-O-43 is an ordinance which seeks to enact and adopt the twenty-third and twenty-fourth supplements to the Code of Ordinances for the City of Elkhart, Indiana.

These supplements will contain all ordinances of general and permanent nature that have been enacted since the previous supplement to the Code of Ordinances of the City of Elkhart was enacted in 2021.

American Legal Publishing Corporation has recommended the revisions or additions to the Code of Ordinances referencing related sections of the Indiana Code, as set forth in the attached *2022 S-23 Supplement* and *Sheet 2023 S-24 Supplement*.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENACTING AND ADOPTING THE TWENTY-THIRD AND  
TWENTY-FOURTH SUPPLEMENTS TO THE  
CODE OF ORDINANCES FOR THE CITY OF ELKHART, INDIANA**

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WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the twenty-third supplement (S-23) and twenty-fourth supplement (S-24) to the Code of Ordinances of the City of Elkhart, Indiana, which contain all ordinances of a general and permanent nature enacted since the passage of the twenty-second supplement (S-22) to the Code of Ordinances of the City of Elkhart; and

WHEREAS, American Legal Publishing Corporation has recommended certain revisions or additions to the Code of Ordinances, which are based upon on or make reference to sections of the Indiana Code; and

WHEREAS, it is the intent of the Common Council to accept these updated sections in accordance with the changes of the law of the State of Indiana; and

WHEREAS, it is necessary to provide for the usual daily operations of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this Ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, that:

Section 1. That the twenty-third and twenty-fourth supplements to the Code of Ordinances of the City of Elkhart, Indiana, as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be, and the same hereby are, adopted by reference as if set out in their entirety.

Section 2. Such supplements shall be deemed published as of the day of their adoption and approval by the Common Council, and the Elkhart City Clerk is hereby authorized and ordered to insert such supplements into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

APPROVED by me this \_\_\_\_\_ day \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

# **THE CITY OF ELKHART, INDIANA**

## **CODE OF ORDINANCES**

2022 S-23 Supplement contains:  
Local legislation current through Ord. 5886, passed 1-3-2022; and  
State legislation current through 2021 Acts, Pamphlet No. 4

Published by:  
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1-800-445-5588 ✧ [www.amlegal.com](http://www.amlegal.com)

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**ORDINANCE NO. 5864**

**AN ORDINANCE ENACTING AND ADOPTING THE TWENTY-SECOND (22ND)  
SUPPLEMENT TO THE CITY OF ELKHART, INDIANA CODE OF ORDINANCES**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the twenty-second supplement to the Code of Ordinances of the City of Elkhart, Indiana, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Elkhart; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Indiana Code; and

WHEREAS, it is the intent of the Common Council to accept these updated sections in accordance with the changes of the law of the State of Indiana; and

WHEREAS, it is necessary to provide for the usual daily operations of the municipality and for the immediate preservation of the public peace, health, safety, and general welfare of the municipality that this Ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, that:

Section 1. That the twenty-second (22nd) supplement to the City of Elkhart, Indiana Code of Ordinances, as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Common Council, and the Elkhart City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

SO ORDAINED this 20th day of September, 2021.

H. Brent Curry /s/  
H. Brent Curry  
President of the Common Council

ATTEST:

Debra D. Barrett /s/  
Debra D. Barrett, City Clerk

**Elkhart - Adopting Ordinance**

PRESENTED to the Mayor by me this 21 day of September, 2021, at 9:30 a.m.

Debra D. Barrett /s/  
Debra D. Barrett, City Clerk

APPROVED by me this 21 day of September, 2021.

Rod Roberson /s/  
Rod Roberson, Mayor

ATTEST:

Debra D. Barrett /s/  
Debra D. Barrett, City Clerk

**FULL-TIME HOURLY COMPENSATED OR SALARIED EMPLOYEE.** An employee who is normally scheduled to work not less than 40 hours per week.

**RETIREMENT.** That time when an employee having reached the age of 62 and having at least 5 years of uninterrupted service with the city voluntarily tenders his or her resignation and indicates his or her intention to cease further employment with the city, or when the Board of Public Works and Safety determines that the employee who has at least 5 years of uninterrupted service with the city is no longer physically or mentally competent to continue employment with the city. **RETIREMENT** shall not be construed to extend to those instances in which an employee is discharged or suspended as a disciplinary action.

(B) The provisions of this section shall apply to all full-time hourly compensated and salaried employees of the city except those employed in positions covered by the AFSCME contract, as officers of the Police and Fire Departments and elected officials. To be eligible for the benefits under this section the retiring employee shall meet all of the following requirements:

(1) The employee shall not have terminated his or her employment with the city temporarily during the last 5 years of service.

(2) An employee who retires early by reason of disability or health is eligible for the payment provided in this section, but the payment may not be made more than 1 time. In the event the employee becomes re-employed by the city, no future retirement benefit as provided in this section shall be available.

(3) In the event of the death of an employee who has met the requirements set forth in division (B)(1) and (2), above and has accumulated sick leave benefits, the benefits shall be payable to the employee's spouse, or if there is no surviving spouse to the employee's estate.

(C) Employees shall be compensated for sick leave accumulated and unused during the time of their employment with the city, and such payment shall be made within 30 days following the retirement of the employee.

(D) The maximum amount of accumulated unused sick leave time which shall be compensated for shall not exceed 640 hours, and the rate of payment for sick leave time shall be at the weighted average hourly base pay rate or, in the case of a salaried employee, the base salary during the last 2 years of the employee's service with the city.

(E) Department heads of the various departments whose employees are eligible for benefits as provided by this section shall maintain and keep an accurate record of all hours accumulating as unused sick leave time and shall include the complete record with their report which is submitted to the City Controller at the end of each year.

(F) Department heads of the various departments whose employees are eligible for benefits as provided by this section shall immediately prepare and distribute to any employee within their department who has accumulated sick leave time a record of the accumulated sick leave time as of December 31, 1979, and each department head shall within 30 days after December 31 of each succeeding year supply any employee within his or her department with the amount of accumulated sick leave time.

(G) The provisions of this section shall be effective for all employees retiring on or after January 1, 1990. (1979 Code, § 32.08) (Ord. 3098, passed 4-16-1979; Am. Ord. 3981, passed 5-7-1990)

**§ 32.019 PAYMENT OF ACCUMULATED SICK LEAVE (WHO LEAVE IN GOOD STANDING).**

(A) The following definition shall apply to this section unless the context clearly indicates or requires a different meaning.



**BENEFITS.** Monetary compensation payable to the employee at time of separation from employment by reason of accumulated unused sick leave time.

(B) *Eligibility.* All full time employees of the City of Elkhart who have been employed by the city for 15 years or more and who leave city employment for any reason other than being terminated for just cause shall receive the benefits set forth in division (D) of this section.

(C) It is determined to be beneficial and proper that city employees shall be compensated for sick leave accumulated and unused during the time of their employment with the City of Elkhart, and that such payment for accumulated sick leave shall be paid within 30 days following the separation of employee.

(D) The maximum amount of accumulated unused sick leave time which shall be compensated for shall not exceed 640 hours, and the rate of payment for the sick leave time shall be at the weighted average hourly base pay rate or, in the case of a salaried employee, the base salary, during the last 2 years of the employee's service with the city.

(E) Department heads of the various departments whose employees are eligible for benefits as provided by this section shall maintain and keep an accurate record of all hours accumulating as unused sick leave time and shall include such complete record with their report to be submitted to the City Controller at the end of each year.

(F) Department heads of the various departments whose employees are eligible for benefits as provided by this section shall forthwith prepare and distribute to any employee within their department who has accumulated sick leave time, a record of the accumulated sick leave time as of December 31, 1998, and each department head shall within 30 days after December 31 of each succeeding year supply any employee within his or her department the amount of accumulated sick leave time.

(G) The provisions of this section shall be effective for all employees separating from city employment on or after September 14, 1998.

(H) This section shall go into effect after publication pursuant to law, but shall not prohibit eligible employees from obtaining the benefit who separate from the city prior to date of publication, but on or after September 14, 1998.

(I) An eligible employee may elect to receive benefits under this section or § 32.018, but not both. (1979 Code, § 32.09) (Ord. 4383, passed 9-22-1998)

#### **§ 32.020 DEFERRED COMPENSATION PLAN ESTABLISHED.**

(A) In order to encourage its employees to save for retirement by offering salary reduction contributions, the City of Elkhart adopts the State of Indiana Public Employee Deferred Compensation Plan.

(B) The Common Council establishes a deferred compensation plan under the terms of the adoption agreement (Exhibit A of Ordinance No. 5552), which is hereby incorporated by reference as if set forth in full herein.  
(Ord. 5552, passed 2-13-2017)

#### **VACATIONS AND HOLIDAYS**

##### **§ 32.035 VACATIONS AND PAID HOLIDAY REGULATIONS.**

(A) *Scope.* This section shall apply to all employees of the city who are not covered by a collective bargaining agreement.

(B) *Vacation.* The vacation schedule for the employees of the City of Elkhart shall be as follows:

(1) Vacation time is awarded in the first year of employment upon completion of a 90-day probationary period as an employee of the city. Thereafter, vacation time is earned on the anniversary date of an employee's date of hire, according to the schedule set forth in division (B)(2) below. However, if an employee's employment is terminated, voluntarily or involuntarily, during the first year of employment, the employee shall be paid compensation based upon the employee's daily rate of pay for the days of unused vacation time, relative to and in proportion to the amount of first year worked. If an employee has used a greater percentage of the employee's vacation time than the percentage of the first year worked, then the employee's final pay shall be reduced by the amount of vacation time used that is in greater than the percent of the first year worked. The reduction shall be based upon the employee's daily rate of pay.

(2) Employees shall be entitled to:

(a) Two weeks (ten workdays) of vacation with pay after successfully completing a 90-day probationary period in the first year of employment, and on the anniversary date of the employee's date of hire in succeeding years.

(b) Three weeks (15 workdays) of vacation with pay in year four of employment.

(c) Four weeks (20 workdays) of vacation with pay in year seven of employment.

(d) Five weeks (25 workdays) of vacation with pay in year 15 of employment.

(3) In addition to the above entitlement, commencing in year 20 and each year thereafter, an employee shall receive the following:

(a) One additional vacation day with pay in year 20;

(b) One additional vacation day with pay in year 21;

(c) One additional vacation day with pay in year 22;

(d) One additional vacation day with pay in year 23;

(e) One additional vacation day with pay in year 24.

(4) Vacation time must be used by the employee's annual anniversary date. Any unused vacation time which remains on the employee's anniversary date shall lapse and shall not carry-over to be added to vacation time that an employee receives in the succeeding year.

(5) Elected and appointed officials shall be entitled to vacation time in the manner and form otherwise established for employees of the city.

(C) *Sick leave.* The sick leave schedule for employees of the city shall be as follows: Each employee will accrue 4 hours of paid sick leave each 2-week period for short-term sickness during the calendar year.

(D) *Holidays.*

(1) The employees of the city shall be granted 12 holidays with pay in addition to the primary and general election days in election years, as follows:

- (a) New Year's Day, January 1;
- (b) Martin Luther King Jr.'s Birthday, the third Monday in January;
- (c) President's Day, the third Monday in February;
- (d) Good Friday;
- (e) Memorial Day, the last Monday in May;
- (f) Juneteenth, June 19;
- (g) Independence Day, July 4;
- (h) Labor Day, the first Monday in September;
- (i) Veteran's Day, November 11;
- (j) Thanksgiving Day, the fourth Thursday in November;
- (k) Friday after Thanksgiving Day;
- (l) Christmas Day, December 25.

(2) When any of these holidays falls on Sunday, the following Monday shall be the legal holiday. When any of these holidays falls on Saturday, the preceding Friday shall be the legal holiday.

(E) *Personal hours.* After 1 year of continuous service, employees of the city shall accrue 16 personal hours per calendar year with pay.

(F) *Funeral leave.* Employees of the city may receive up to 5 days of paid funeral leave. (1979 Code, § 32.15) (Ord. 2018, passed 10-7-1963; Ord. 4507, passed 9-11-2001; Am. Ord. 4854, passed 10-7-2004; Am. Ord. 5237, passed 11-1-2010; Am. Ord. 5856, passed 7-19-2021; Am. Ord. 5885, passed 12-6-2021)

### **COLLECTIVE BARGAINING**

#### **§ 32.045 TITLE; PUBLIC POLICY.**

(A) This subchapter shall be cited and referred to as the Collective Bargaining subchapter for certain full-time hourly employees of the city.

(B) (1) It is declared to be the public policy of the city that, to protect the public health, safety and welfare of the citizens of the city, public employees do not have, and will not be accorded, the right to strike or engage in any type of work stoppage, slowdown, picketing or any other type of job action that does or might interfere with or depart from the proper performance of their duties and responsibilities or those of any other public employees as prescribed by the city.

(2) In the event any of the actions prohibited in division (B)(1) above occur:

(a) Any court of competent jurisdiction immediately shall restrain and enjoin such actions and award to the city any and all other appropriate relief;

(b) The City Administration shall no longer have the duty to recognize or bargain with any bargaining agent then representing the bargaining unit; and

(c) All employees who have engaged in the action shall be subject to immediate termination by the Board of Public Works and Safety in conformance with relevant state law and any applicable grievance procedures.  
(1979 Code, § 32.20) (Ord. 3858, passed 5-6-1988)

#### § 32.046 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BARGAINING AGENT.** The organization, if any, elected by the bargaining unit in the manner prescribed herein to represent the bargaining unit in collective bargaining with the city.

**BARGAINING UNIT.** The full-time, hourly employees of the Aviation, Cemetery, Building and Code Enforcement, Public Work and Utilities - Wastewater (operations, maintenance and network collection systems), Public Buildings and Grounds Maintenance, Communications Center, Central Garage, Police Department - non-sworn and non-uniformed, and Fire Department - non-sworn and non-uniformed.

**CITY ADMINISTRATION.** The Mayor of the city, the Board of Public Works and the Board of Public Safety.

**CITY BARGAINING COMMITTEE.** Those persons appointed by the Mayor to represent the city in collective bargaining and the city's bargaining counsel, if the city chooses to utilize legal counsel as part of its bargaining committee. That committee may consist of as many as 5 persons appointed by the Mayor, plus any legal counsel. Bargaining unit members may not serve on the **CITY BARGAINING COMMITTEE**.

**CITY BARGAINING POLICY COMMITTEE.** A committee consisting of the Mayor or his/her designee, 1 member of the Board of Public Works or Board of Public Safety as appointed by the Mayor or his/her assign, and 2 members of the Common Council, 1 from each political party, appointed by the President of the Common Council.

**EMPLOYEES BARGAINING COMMITTEE.** The committee which meets with the city's Bargaining Committee for the purpose of collective bargaining. The **EMPLOYEES BARGAINING COMMITTEE** shall consist of no more than 4 members of the Bargaining Unit. The Bargaining Unit members have the option of including their legal counsel and a representative of the Bargaining Agent, if any, who is not a member of the Bargaining Unit as members of the **EMPLOYEES BARGAINING COMMITTEE**.

**FULL-TIME HOURLY EMPLOYEE.** Employees who are scheduled on duty an average of 40 hours or more per week.  
(1979 Code, § 32.21) (Ord. 3858, passed 5-6-1988; Am. Ord. 4569, passed 3-19-2001; Am. Ord. 5731, passed 5-6-2019)

#### § 32.047 BARGAINING AGENT, BARGAINING COMMITTEE.

(A) Any organization which currently represents the bargaining unit will continue to be recognized by the city unless the recognition is withdrawn pursuant to this subchapter by city or bargaining unit members.

(A) Auditoriums, convention centers, lecture halls, sports or entertainment arenas, including enclosed places in outdoor arenas or venues and in grandstands or other places of public gathering;

(B) Aquariums, galleries, libraries and museums, or other places of public display or collection;

(C) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers, or other sales or retail establishments;

(D) A bar;

(E) Bed and breakfast facilities, inns, and hotels, motels and other places of lodging;

(F) Bingo facilities;

(G) Day care centers, senior citizen centers, homeless shelters, food banks, adoptions agencies or other social service center establishments;

(H) Elevators;

(I) Gymnasiums, health spas, bowling alleys, golf courses, or other places of exercise or recreation;

(J) Health care facilities;

(K) Laundromats, dry-cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas stations, professional offices, and pharmacies;

(L) Lobbies, hallways, and other common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and multiple-unit residential facilities;

(M) Motion picture houses, theaters, and similar facilities used for exhibiting motion pictures, musical recitals and other similar performances;

(N) Nurseries, elementary, secondary, undergraduate or postgraduate school, or other place of education;

(O) Parks, zoos, amusement parks, playgrounds, or other similar places of recreation;

(P) Public transportation facilities, including buses and taxicabs, and ticketing, boarding, and waiting areas of public transit depots;

(Q) Restaurants, including any outside eating or drinking areas provided by a restaurant to its patrons;

(R) Restrooms, lobbies, reception areas, hallways and other common-use areas;

(S) Service lines;

(T) Shopping malls.  
(Ord. 5102, passed 4-3-2008) Penalty, see § 153.99

**§ 153.73 PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.**

(A) Smoking shall be prohibited in all enclosed areas within places of employment. This includes, but is not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms and all other enclosed facilities.

(B) Every employer having a building or enclosed facility where smoking is prohibited by this subchapter shall adopt, maintain and enforce a written smoking policy consistent with this subchapter.  
(Ord. 5102, passed 4-3-2008) Penalty, see § 153.99

**§ 153.74 REASONABLE DISTANCE.**

Smoking shall be prohibited out of doors within a reasonable distance from an enclosed area where

smoking is prohibited by this subchapter, but in no event any closer than 15 feet, so as to insure that tobacco smoke does not enter into establishments designated as smoke free under this subchapter through public entrances, windows, ventilation intakes or other means.

(Ord. 5102, passed 4-3-2008) Penalty, see § 153.99

### § 153.75 EXEMPTIONS.

(A) Notwithstanding the smoking prohibitions in § 153.72, smoking will be permitted in the following locations:

(1) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited under the provisions of this subchapter. The status of rooms as smoking or non-smoking shall not be changed, except to add additional nonsmoking rooms and in any case may not exceed 20% of available rooms;

(2) Retail tobacco stores;

(3) Private clubs;

(4) Halls, rooms or assembly areas owned or operated by a church, synagogue, or other place of worship if smoking is part of a religious ceremony or an essential part of the religious tenets;

(5) Outdoor areas of a golf course, not to include miniature golf courses;

(6) Private motor vehicles;

(7) Private residences except when used as a child care, adult day care or health care facility;

(8) Outdoor areas of employment.

(9) *Cigar bars.* An establishment that is owned or leased by a business that meets the following requirements:

(a) The business prohibits entry by an individual who is less than 21 years of age.

(b) The owner or operator of the business holds a beer, liquor, or wine retailer's permit.

(c) The business limits smoking in the establishment to cigar smoking.

(d) During the preceding calendar year, at least 10% of the business's annual gross income was from the sale of cigars and the rental of onsite humidors.

(e) The person in charge of the business posts in the establishment conspicuous signs that display the message that cigarette smoking is prohibited.

(f) The sale of prepared foods for on-premises consumption is prohibited.

(B) This subchapter shall allow a one-time, 12-month extension for compliance for those bars that only admit patrons aged 21 years and older. No establishments with separate family dining facilities will be eligible for this extension. In order to qualify for this extension, the bar must file an application for a certificate of extension with the enforcement authority not later than 30 days after the effective date of this subchapter. The extension shall be for a period of one calendar year from the effective date of this subchapter. Any establishment granted such an extension must clearly post notices of that the extension is in effect at all public entrances to the establishment. Only establishments currently in operation as of the effective date of this subchapter are eligible for this extension.

(C) Notwithstanding any other provision herein, smoking shall not be allowed in any area if the smoke from smoking is allowed to enter, either directly or indirectly, any other area where smoking is prohibited under this subchapter.

(D) No person or entity shall discharge, refuse to hire or retaliate in any manner against an employee, applicant for employment, or customer because of any attempt to enforce the provisions of this subchapter by such employee, applicant or customer.  
(Ord. 5102, passed 4-3-2008; Am. Ord. 5878, passed 11-1-2021)

#### § 153.76 SIGNS.

Every place of public accommodation, building or enclosed facility and every place of employment where smoking is allowed under the provisions of this subchapter must post a conspicuous and clearly legible sign at each entrance that warns that tobacco smoke may be present.  
(Ord. 5102, passed 4-3-2008)

#### § 153.77 DECLARATION OF ESTABLISHMENT AS NONSMOKING.

Notwithstanding any other provision of this subchapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.  
(Ord. 5102, passed 4-3-2008)

#### § 153.78 ENFORCEMENT.

(A) This subchapter shall be enforced by the Building and Code Enforcement Department or its authorized designee (hereafter the "Enforcement Authority"). Any person who desires to register a complaint under this subchapter may report a violation to the Enforcement Authority. The Enforcement Authority shall, in connection with other routine inspections, inspect for compliance with this subchapter.

(B) The record owner(s), manager(s), operator(s), tenant(s), employee(s) and/or other occupant(s) of any structure, land or part thereof, and other person(s) who commit, participate in, assist in,

and/or maintain and/or allow a violation to continue shall each be considered responsible parties and may be found liable for separate violations.  
(Ord. 5102, passed 4-3-2008)

#### § 153.99 PENALTY.

(A) The Building Commissioner shall, in the name of the city, bring actions in any court of competent jurisdiction for mandatory and injunctive relief in the enforcement of, and to secure compliance with, any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code.  
(1979 Code, § 153.998)

(B) If any person, firm or corporation shall violate any of the provisions of this code, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code, for each such violation, failure or refusal, such person, firm or corporation shall be fined in any sum not less than \$25, nor more than \$2,500. Each day of such unlawful activity as prohibited by this section shall constitute a separate offense.

(C) (1) Any person found to be in violation of §§ 153.70 through 153.78 shall, upon conviction, be fined as follows:

(a) The issuance of a verbal warning for the first violation;

(b) The issuance of a written warning for the second violation within the same calendar year;

(c) A fine of not less than \$100 for a third violation within the same calendar year;

(d) A fine of not less than \$200 for a fourth violation within the same calendar year; and

(e) A fine not to exceed \$500 for each additional violation occurring within the same calendar year.

(2) Each day of violation shall constitute a separate and distinct offense.  
(1979 Code, § 153.999) (Ord. 3648, passed 9-26-1985; Am. Ord. 4608, passed 8-20-2001; Am. Ord. 4704, passed 9-23-2002; Am. Ord. 5102, passed 4-3-2008)



**Boundaries and Annexations**

20C

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5803	5-4-2020	Correcting scrivener's error in legal description in Ordinance 5794.
5812	7-20-2020	Annexing certain real estate commonly known as 2411 County Road 10 W and 28330 County Road 10 W into the city.
5829	12-21-2020	Annexing certain real estate commonly known as 1333 S. Nappanee Street into the city.
5832	3-1-2021	Annexing certain real estate commonly known as 23809 US 33, 23821 US 33, 23861 US 33, 23834 US 33 and 23845 US 33 into the city.
5841	5-17-2021	Annexing certain real estate commonly known as three lots at the northeast corner of W. Hively Avenue and S. 6th Street into the city.
5852	6-7-2021	Annexing certain real estate commonly known as 32.754 acres on the south side of Henke Street between Jeanwood Drive and Lane Street into the city.
5869	10-4-2021	Annexing certain real estate located in the southeast corner of the intersection of County Road 24 and State Road 19 into the city.
5879	11-1-2021	Annexing certain real estate commonly known as 28227 County Road 26 into the city.
5880	11-1-2021	Annexing certain real estate commonly known as the southwest corner of SR 19 and Charlotte Avenue, east of CR 24 into the city.

Zoning Map Changes

40G

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5638	1-8-2018	Rezoning real estate located at 1400 South Nappanee from B-1 to B-2.
5654	3-19-2018	Rezoning real estate located at the southeast intersection of County Road 6 and Stryker Street from PUD and R-1 to R-2.
5659	3-19-2018	Amending conditions of the Elkhart General Hospital PUD.
5664	5-7-2018	Rezoning real estate located at 512 Hallie Road from R-2 to R-4.
5670	5-21-2018	Amending conditions of the Mennonite Biblical Seminary/Mennonite Board of Education PUD.
5671	6-4-2018	Amending conditions of the Parkway at 17 PUD.
5672	6-4-2018	Rezoning real estate located at 3500 Cassopolis Street from R-1 to B-2.
5684	9-10-2018	Rezoning certain real estate located at vacant land on Emerson Drive from B-1 to B-2.
5707	12-17-2018	Rezoning real estate located at 750 County Road 15 from M-1 to B-2.
5738	6-3-2019	Amending planned unit development to allow construction of two apartment buildings containing a total of 28 dwelling units and 35 new parking spaces.
5747	7-1-2019	Rezoning certain real estate located at vacant lot on north side of Jackson Blvd., in the vicinity of vacated Clark Street and Pacific Street from R-2 and R-5 to CBD.
5748	7-1-2019	Rezoning certain real estate located at vacant land on Emerson Drive from B-2 to B-3.
5759	9-9-2019	Rezoning certain real estate located at 52440 County Road 101 from R-1 to M-1.
5760	9-9-2019	Rezoning certain real estate located at northwest corner of County Road 17 and Hoffman Street from B-2 to M-1.
5764	10-7-2019	Removing 1600 Osolo Road from the Planned Unit Development District and rezoning 1600 Osolo Road to R-2.
5776	11-4-2019	Removing real estate located at 3542 South Main Street from the Planned Unit Development and rezoning 3542 South Main Street to B-3.

## Elkhart - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5786	1-13-2020	Rezoning real estate located at 152 State Street and 156 State Street from R-2 to R-3.
5787	1-13-2020	Rezoning real estate located at 160 State Street from R-2 to R-3.
5788	2-3-2020	Rezoning real estate located at 2743 South Nappanee Street and vacant land southwest of Nappanee Street and Hively Avenue from M-1 to B-3.
5806	6-15-2020	Rezoning real estate located at vacant lot East Bristol Street (adjacent to 818 E. Bristol Street) from R-2 to O.
5828	12-21-2020	Rezoning approximately 28.5 acres south of Arlington Street between Cassopolis Street and Johnson Street from PUD to B-4.
5830	2-8-2021	Rezoning 1717 Fulton Street from R-2 to O.
5834	4-5-2021	Rezoning 23605 US 20 and 2704 Toledo Road from B-3 and PUD to M-1.
5839	5-3-2021	Rezoning 1313 W. Hubbard Avenue from R-3 to R-2.
5845	6-7-2021	Rezoning the lot west of 2014 E. Bristol Street from R-2 to B-1.
5846	6-7-2021	Rezoning approximately 16.2 acres at 123 County Road 17 from DPUD, M-1 to M-1.
5847	6-7-2021	Rezoning 1311 West Hubbard Avenue from R-3 to R-2.
5848	6-7-2021	Removing 2.3 acres of vacant land on Haines Drive from within Villas at Lexington Landing PUD and rezoning the same as Villas at Lexington Landing Phase II PUD.
5849	6-7-2021	Rezoning 8.34 acres of vacant land between the 2100 and 2200 blocks of Cassopolis Street from B-3 and M-1 to R-4.
5854	7-12-2021	Rezoning vacant land at the southwest corner of County Road 6 East and Elkhart East Boulevard from R-1 to M-1.
5857	8-2-2021	Amending Park Six PUD by changing the underlying standards from M-1 to B-3.
5877	11-1-2021	Rezoning the vacant lot adjacent to and east of 1440 South Nappanee Street from B-1 to B-2.

Vacations

78A

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5524	10-17-2016	Vacating the portion of the alley running east from 18th Street between Fieldhouse Avenue and Markle Avenue.
5537	12-5-2016	Vacating the portion of the east-west alley running between Washington Street and Jefferson Street, and between North Main Street and the Elkhart River.
5605	8-7-2017	Vacating North Clark Street and Hannah Court.
5616	9-11-2017	Vacating the north/south alley west of Lots 437-440 and the east/west alley extending west of Lots 437-438 to Sixth Street in Chapman's Rosedale Addition.
5623	10-16-2017	Vacating the north/south alley between Country Club Drive and Modrell Avenue.
5655	3-19-2018	Vacating the eastern portion of Doll Court.
5658	3-19-2018	Vacating a part of Highland Avenue between Massachusetts Avenue and Lawn Avenue.
5662	4-16-2018	Vacating a part of Lawn Avenue between Highland Avenue and Arcade Avenue and a portion of two north-south alleys between Highland Avenue and East Boulevard.
5679	8-20-2018	Vacating a part of Hudson Boulevard running north and south between York Street and Folsom Street.
5706	12-17-2018	Vacating a part of the remaining alleys in John W. Fieldhouse's Subdivision and the north-south alley lying between John W. Fieldhouse's Subdivision and Hannah W. Clark's addition.
5724	4-1-2019	Vacating a portion of Clark Street from Elkhart Avenue extending north approximately 124 feet.
5755	8-19-2019	Vacating a portion of a 16.5-foot wide alley located adjacent to Lot 9 and Lot 10 in the Riverview Addition extending west of the intersection of a 12-foot alley between Lot 9 and Lot 7 of said Addition.
5813	8-3-2020	Vacating Easy Shopping Place, a public right-of-way situated between the north line of East Jackson Boulevard and the south line of Elkhart Avenue.
5840	5-17-2021	Vacating an alley adjacent to Lots 25, 26, 27 and 28 of the Spring Fountain Place Addition.

**Elkhart - Table of Special Ordinances**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5867	10-4-2021	Vacating the east/west alley between 14th and 15th Street and a portion of 15th Street.
5886	1-3-2022	Vacating David Street, bounded on the west by the east right-of-way line of Plaza Court and bounded on the east by the west right-of-way line of State Road 19.

## References to Ordinances

79

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
5834	4-5-2021	T.S.O. V
5839	5-3-2021	T.S.O. V
5840	5-17-2021	T.S.O. VI
5841	5-17-2021	T.S.O. II
5845	6-7-2021	T.S.O. V
5846	6-7-2021	T.S.O. V
5847	6-7-2021	T.S.O. V
5848	6-7-2021	T.S.O. V
5849	6-7-2021	T.S.O. V
5852	6-7-2021	T.S.O. II
5854	7-12-2021	T.S.O. V
5856	7-19-2021	32.035
5857	8-2-2021	T.S.O. V
5864	9-20-2021	Adopting Ordinance
5867	10-4-2021	T.S.O. VI
5869	10-4-2021	T.S.O. II
5877	11-1-2021	T.S.O. V
5878	11-1-2021	153.75
5879	11-1-2021	T.S.O. II
5880	11-1-2021	T.S.O. II
5885	12-6-2021	32.035
5886	1-3-2022	T.S.O. VI

# **THE CITY OF ELKHART, INDIANA**

## **CODE OF ORDINANCES**

2024 S-24 Supplement contains:  
Local legislation current through Ord. 5955, passed 10-2-2023; and  
State legislation current through 2023 Acts, Pamphlet No. 3

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**CHAPTER 30: CITY COUNCIL**

Section

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- 30.15 Ordinances
- 30.16 Standing committees
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- 30.18 Participation in meetings of the Council by means of electronic communication

*Councilmanic Districts*

- 30.40 Division into 6 districts
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**RULES AND REGULATIONS FOR GOVERNMENT OF COUNCIL**

**§ 30.01 ADOPTION OF RULES AND REGULATIONS.**

(A) The rules and regulations prescribed in §§ 30.01 through 30.17 are hereby adopted for the government of the Council of the city and of its Council members. Any enumeration of powers in this subchapter shall not be held to limit the legislative power of the Council except where specifically provided.

(B) The Council shall have the power to adopt local laws deemed necessary for the effective operation and conduct of government with respect to municipal and internal affairs, and shall provide for the enforcement of such laws and prescribe violation and punishments thereto.

(C) The Council shall have the authority to request or compel attendance of Council members, other officers of the city and other witnesses, and may require the production of documents germane to matters being considered at meetings of the Council.

(D) The Council may punish contempt and disorder in rooms of the Council.

(E) The Council shall have the power to discipline Council members.

(F) The Council shall have the power to pass all ordinances, orders, resolutions and motions for the government of the city, for the control of its property and finances and for the appropriation of money.

(G) The Council shall have the power to supervise and investigate all departments, officers and employees of the city government and to examine into any charge preferred against them, and into the affairs of any corporation, firm or person in which the city may be interested in contracting.

(H) The Council shall have the power to manage the finances of the city subject to the powers and duties vested in the executive departments. (1979 Code, § 30.01) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993)

#### **§ 30.02 LEGISLATIVE POWER.**

The legislative power and authority of the city shall be vested in the Council. Unless otherwise provided by law, all powers and duties of the city which are legislative in nature shall be exercised and performed by the Council. (1979 Code, § 30.02) (Ord. 3116, passed 7-2-1979)

#### **§ 30.03 COMPOSITION.**

The Council shall consist of 9 members, 6 district Council members elected from districts and 3 Council members-at-large elected at large from the entire city. (1979 Code, § 30.03) (Ord. 3116, passed 7-2-1979)

#### **§ 30.04 ELIGIBILITY.**

To be eligible to run for the office of Council member, all persons shall be bona fide citizens of the United States and the state and shall have attained the age of 18 years when elected. Additionally, all persons shall have been a resident of the city for at least 1 year immediately preceding his or her election; and for all persons to be eligible to run for the office of district Council member shall have resided in that district for the last 6 months preceding his or her

election. Should any Council member representing any district cease to be a resident of the district or any at-large Council member cease to be a resident of the city during his or her term of office, the office shall thereby become immediately vacant.

(1979 Code, § 30.04) (Ord. 3116, passed 7-2-1979)

#### **§ 30.05 ELECTION; SALARY.**

Election of Council members shall be in accordance with all laws governing primary and general elections. The term of office of each Council member shall commence on January 1 after his or her election and shall continue for 4 years thereafter. The Council member's oath of office shall be administered by a duly qualified person to each Council member and it shall be signed and filed with the Office of City Clerk on or before January 1 after his or her election. The salary of each Council member shall be a specified amount as set forth in the salary ordinance for elected city officials.

(1979 Code, § 30.05) (Ord. 3116, passed 7-2-1979)

#### **§ 30.06 INITIAL MEETING.**

The members-elect of the Council shall hold their first regular meeting on the first or second Monday in January after their election at the hour of 7:00 p.m. in the Council chambers. At this meeting, they shall choose from the Council members a President and a Vice-President, which officers shall serve until noon of the first meeting in January of the next succeeding year. Their successors shall be chosen to serve for 1 year or until the first meeting in January of the next succeeding year.

(1979 Code, § 30.06) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 5234, passed 10-18-2010)

#### **§ 30.07 TIME AND PLACE OF MEETINGS.**

The regular meetings of the Council shall be held at the Council chambers on the first and third Monday evenings of each month at the hour of 7:00 p.m. If any regular meeting date falls on a holiday established

by state or city law, or if a serious conflict for the Council arises as to a meeting date, the Council President, or the Council by majority vote, shall reschedule the regular meeting for any date or time, provided that such rescheduling will not result in the failure of the Council to hold at least 1 meeting during any monthly period. At the hour named, the President shall call the Council to order, and if he or she is absent, the Vice-President shall act in his or her stead. If the latter is absent, any member of the Council may, upon motion, be called to the chair and act as presiding officer only until the arrival of 1 entitled to preside.

(1979 Code, § 30.07) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993)

#### **§ 30.08 COMMITTEE MEETINGS.**

The President of the Council shall schedule committee meetings of the whole Council as necessary, and shall give Council members written notice of the meeting at least 48 hours prior to the meeting. Any 3 members of the Council, after consultation with the Council President, may also call a committee meeting of the whole Council in the same manner as the Council President. The committee meetings shall be open to both the press and public as are all regular and special meetings of the Council. The President shall call the Council to order at the prescribed time, or in his or her absence, the Vice-President shall act in his or her stead. Although the parliamentary rules governing procedures for speech and debate may be set aside at the discretion of the President at such committee meetings, all other rules and regulations governing decorum and standards of conduct shall be in full force and effect whenever a Council member performs any of the duties, obligations and services mandated by his or her office.

(1979 Code, § 30.08) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 4211, passed 8-21-1995)

#### **§ 30.09 SPECIAL MEETINGS.**

(A) Special meetings of the Council shall be held on the call of the Presiding Officer of the Council or

of any 5 members of the Council, or the Mayor. The call shall be in writing, and specify therein the objects of the call, that is to say, the particular purposes for which it is called. The call shall be signed by the Presiding Officer or the Mayor, or, when made by members of the Council, by them, and sealed with the seal of the city and countersigned by the Clerk.

(B) Each member of the Council shall be notified of the holdings of the special meeting by the Chief of Police or any of the members of the police force, personally serving the call to them, or leaving a certified copy thereof at the last and usual place of residence of any member that the officer is not able to find.

(C) Only such business shall be transacted at the special meeting as is specifically stated in the call for the special meeting. The minute record shall show the issuance of the call, and the service of notice thereof, for which purpose the officer serving the notice shall make return to the Clerk.

(1979 Code, § 30.09) (Ord. 3116, passed 7-2-1979)

#### **§ 30.10 QUORUM.**

A majority of all Council members to which the districts and city are entitled shall make a quorum.

(1979 Code, § 30.10) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 4211, passed 8-21-1995)

#### **§ 30.11 PRESIDENT; VICE-PRESIDENT.**

(A) The President of the Council shall preside over all regular and special meetings of the Council. The President shall call the Council to order at the hour for the opening of the meetings and on the appearance of a quorum. The President shall have the right to vote on all matters, but shall not advocate a position on an issue before the Council without first taking leave of the chair. In the event the President chooses to take leave of the chair, the Vice-President shall temporarily take the chair until the President concludes his or her discussion.

(B) The President shall:

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(1) Preserve strict order and decorum;

(2) Decide all questions of order and his or her decisions shall be final unless appeals are taken to the Council; an appeal of the decision of the President or the Vice-President shall be taken as follows:

(a) The Council member shall indicate he or she is appealing the decision;

(b) The Council member shall state his or her grounds for the appeal; and

(c) The Council shall vote on the member's appeal. If the appeal passes by a majority vote of the Council, the President's decision shall be overruled.

(3) Appoint all standing committees at the first meeting in January or as soon thereafter as possible; however, the standing committees shall serve only during the term of the appointing President;

(4) Appoint all special committees which may be ordered by the Council;

(5) Fill all temporary and permanent vacancies which may occur in any of the standing or special committees;

(6) Appoint Council members to commissions, boards, departments and other agencies of the city, county or other entity when a member from the Council or other person is required or authorized to be appointed by the Council to such commission, board, department or other agency pursuant to city ordinance, county ordinance, state statute or other lawful authority.

(a) An appointment log of all such appointments shall be maintained by the Office of the City Clerk and shall be available to the Council and the Deputy Clerk of the Council;

(b) The appointment log shall include the most recent appointment by the Council and the expiration date of each appointee's term; and

(c) The Deputy Clerk of the Council shall notify the Council of any vacancies requiring appointment by the Council;

(7) Sign all ordinances and resolutions adopted by the Council prior to their presentation to the Mayor as well as all ordinances after enrollment, and the journal of the proceedings; and

(8) Exercise any power or perform any function proper and necessary for the effective and efficient operation of the office.

(C) It shall be the prerogative of the President to assign an ordinance, resolution or other document, either to committee or first reading of the ordinance.

(D) The Vice-President shall possess the powers and perform the duties of the President of the Council when the President is absent. When a vacancy occurs in the office of the President, the Vice-President shall assume the office of the President of the Council and the Council shall elect a new Vice-President for the remainder of the term.

(1979 Code, § 30.11) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 5889, passed 2-14-2022)

### § 30.12 SERGEANT-AT-ARMS.

(A) On the recommendation of the President of the Council, the Chief of Police shall designate, detail and assign a police officer to act as sergeant-at-arms for the Council.

(B) The sergeant-at-arms shall preserve order in and about the Council chamber.

(C) The sergeant-at-arms shall exercise and perform other duties as may be prescribed by this code and the laws of the state for the effective operation and conduct of the Council.

(1979 Code, § 30.12) (Ord. 3116, passed 7-2-1979)

**§ 30.13 DECORUM AND DEBATE.**

(A) The Presiding Officer shall preserve order and decorum at all Council meetings.

(B) Each member of the Council shall be present within the Council chamber during the sessions of the Council, unless excused or necessarily prevented from being present, and shall vote on each question put unless excused from voting by a majority of the Council members present.

(C) A Council member shall not vote, or take any other discretionary action in his or her official capacity, except in the exercise of his or her own independent judgment, reached after due regard for the collective interest of his or her constituency as a whole, and of the citizens and the community of the city. The prohibition in this section extends to any agreement to take action in violation of this section and to any effort to induce other Council members to violate it.

(D) Whenever a Council member has or is likely to have a substantial conflict of interest in connection with a matter pending before the Council, he or she shall disclose fully the nature of his or her conflict of interest and may thereafter, in the judgment of the Council member, either:

(1) Disqualify himself or herself from further action on the matter; or

(2) Continue to participate in the deliberations and to vote on the matter.

(E) Notwithstanding division (D) above, whenever a Council member has or is likely to have a private financial interest in connection with any official matter pending before the Council, he or she shall disqualify himself or herself from further participation in the proceeding.

(F) A Council member shall not derive or attempt to derive any unjustified enrichment from his or her office. This division forbids:

(1) The solicitation or acceptance of any bribe, gift or other material economic benefit, or of any promise of similar benefit, which he or she believed or reasonably should believe was intended to influence;

(2) The solicitation or acceptance of any gift or other economic benefit conferred because of any vote or other action in his or her official capacity already taken by him or her;

(3) The acquisition or use for personal purposes of any property, services or funds of the city, unless authorized by law; and/or

(4) The use for personal gain of information pertaining to the city which is not a matter of public record, at a time when it is treated as confidential by the officials of the city.

(G) When any member is about to speak or deliver any matter to the Council, he or she shall respectfully address himself or herself to the Presiding Officer, and on being recognized, confine himself or herself to the question in debate and avoid personality. The Presiding Officer shall not recognize any member as in order, unless he or she is in his or her proper seat.

(H) When 2 or more Council members seek recognition at once, the Presiding Officer shall name the member entitled to speak.

(I) No Council member shall speak more than twice on the same question without leave of the Council, nor more than once until every Council member choosing to speak has spoken.

(J) While the Presiding Officer or a Council member is addressing the Council, no Council member shall walk out of or across the Council chamber or engage in private discourse.

(K) No Council member shall impugn a motive of another.

(L) Any Council member may change his or her vote before the announcement of the result by the Presiding Officer.

(M) If any Council member, in speaking or otherwise, shall transgress the rules of the Council, the Presiding Officer shall, or any Council member may, call him or her to order, in which case he or she shall immediately cease the transgression unless permitted, on motion of another Council member, to explain; and the Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Council member called to order, he or she shall be at liberty to proceed, but not otherwise, and if the case requires it, he or she shall be liable to the censure of the Council.

(N) Should any Council member, in the course of his or her remarks violate a second time any rule of the Council, and again be called to order, he or she shall not speak further on the pending question, except by permission of 2/3 of the Council members present.

(O) Each Council member shall observe the highest standards of dignity, propriety, courtesy, respect and decorum when with his or her fellow Council members, officers and employees of the city, and all other persons, and when carrying out any of the responsibilities, duties and services mandated by the office of a Council member.

(1979 Code, § 30.13) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 5889, passed 2-14-2022)

#### § 30.14 PARLIAMENTARY PROCEDURE.

(A) The most recent edition of *Robert's Rules of Order*, newly revised, shall be the authority on all questions of parliamentary law and procedure not specifically covered by this subchapter. For the purposes of this subchapter, parliamentary law shall mean the enacted rules and recognized usages which govern the procedure of legislative assemblies.

(B) It shall require a majority vote of 5 of the 9 Council members, to pass an ordinance or resolution.

Whenever by law it is required that any ordinance or resolution shall be passed by a 2/3 vote, the requirement shall be construed to mean a 2/3 vote of all Council members; i.e., 6 of the 9 members. Whenever by law it is required that any ordinance or resolution shall be passed by a 3/4 vote, the requirement shall be construed to mean a 3/4 vote of all Council members; i.e., 7 of the 9 members.

(C) No one not a member of Council shall be permitted to address the Council except on invitation by the Presiding Officer or by a majority vote of the Council.

(D) No ordinance or resolution shall be received or considered by the Council unless it is presented by some member thereof or as provided by law. Every motion made by any member of the Council and entertained by the Presiding Officer shall be reduced to writing on the demand of any Council member. When a motion has been made, the Presiding Officer shall state it, and it shall then be in the possession of the Council, but may be withdrawn at any time before a decision or amendment.

(E) When, in order to enact an ordinance, resolution or motion, state law requires a majority of the Council to vote "aye", the following procedures shall be applicable in calculating the majority.

(1) Only Council members who have disqualified themselves on a matter due to a substantial conflict of interest or have disclosed fully the nature of their conflict of interest pursuant to the provisions of this chapter are entitled to an abstention.

(2) Absentations shall not be counted as either an "aye" or "nay" vote.

(F) The Presiding Officer shall decide whether any question is carried by an affirmative or a negative vote, but if he or she is in doubt, a roll call vote shall be asked for.

(G) When a question is under debate, no motion shall be received, but to adjourn, to lay on the table, for the previous questions (which motion shall be

decided without debate), to postpone to a day certain, to refer, to amend or to postpone indefinitely, which several motions shall have preference in the order in which they are here arranged.

(1) The motion to adjourn and the motion to fix a time to which the Council shall adjourn shall always be in order, the latter motion taking precedence of the former.

(2) The motion to lay an amendment on the table shall not affect the main question which it is proposed to amend.

(3) The previous question shall be put in this form: "I move for the main question. " It shall only be granted when demanded by a simple majority of the Council; and its effect shall be to put an end to all debate, and until decided, shall preclude all other motions or amendments, except the motion to adjourn. If the motion is sustained, the Presiding Officer shall at once put the question, first on pending amendments and then on the main questions.

(4) The motion to postpone to a day certain can be amended by altering the time.

(5) The motion to commit may be amended by altering the committee or by giving instructions.

(6) A motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute to which 1 amendment may be offered, but neither may be withdrawn before amendment or decision is had thereon.

(7) No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding meeting.

(8) A question shall be divided on the demand of any Council member, if it includes 2 or more distinct propositions.

(9) A motion to strike out and insert shall be indivisible, but a motion to strike out being lost

shall neither preclude amendment nor motion to strike out and insert, and no consideration shall be submitted under color of amendment.

(10) When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same or the next regular meeting, to move for the reconsideration thereof. Such a motion on being made may be seconded by any Council member and may be made at any time. It shall be debatable and requires a majority vote to prevail.

(H) When a resolution is offered or a report or other matter presented, the Presiding Officer may take the reception thereof for granted, unless objection is made, when a formal motion shall be required.

(I) Appeals, questions of order, objection to the consideration of a question, the reading of papers, leave to withdraw a motion and suspension of the rules are questions which shall take precedence of and be decided before the question which gave rise to them; which several questions cannot be amended, and all questions of order which may arise pending a question is not debatable must be decided without debate.

(1979 Code, § 30.14) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 5889, passed 2-14-2022)

### § 30.15 ORDINANCES.

(A) All legislation of the city shall be by ordinance or by resolution. The word **RESOLUTION**, as used in this chapter, shall be the official action of the Council in the form of a motion; the action shall be limited to matters required or permitted to be done by resolution by this chapter or by state or federal law and to matters pertaining to the internal affairs or concerns of the city government. All other acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and short title, or by a code section number when a codification or compilation of ordinances is completed. Ordinances shall be



numbered in order as they are passed, but dispatched in order as they are introduced, except when the Council shall direct otherwise.

(1) Each proposed ordinance shall begin after a preliminary "Statement of Purpose and Intent" by the following: "NOW, THEREFORE, BE IT ORDAINED by the Council of the City, Indiana, as follows:" and a section by section format shall follow.

(2) In all proposed ordinances containing words which shall add words to an existing ordinance, the added words shall be underlined (\_\_\_\_\_).

(3) All proposed ordinances requesting deletions of words from an existing ordinance shall indicate the deletion by a dash through the word or words (- - - - -).

(4) All ordinances and resolutions must be accompanied with a letter stating who requested the ordinance or resolution and the purpose for the ordinance or resolution.

(5) Every proposed ordinance and resolution shall be examined and approved as to form by the City Attorney, or another attorney designated by the City Attorney, prior to the time it is presented to the Clerk. After such examination and approval, the City Attorney, or the attorney designated by the City Attorney, shall assign an ordinance or resolution number and shall place the proposed ordinance or resolution in the possession of the Clerk of the Council who shall introduce the ordinance or resolution as prescribed herein.

(B) Every ordinance shall be read by title, 3 times before its passage, unless pursuant to division (C) below, the ordinance is read in full on the second reading, but no ordinance shall be read the third time at the same meeting it is introduced unless by unanimous vote of all Council members present, there being present at least 2/3 of the Council members (6 Council members), this rule may be suspended by a yea and nay vote.

(C) Every ordinance shall be read by title on second reading unless the Council members request by

majority voice vote of all the Council members present, and there being present at least 2/3 of the Council members, that the ordinance be read in full, in which case the ordinance shall be read in full on second reading.

(D) No item shall appear on the agenda of a regular meeting of the Council unless the item has been filed in the office of the City Clerk on or before 12:00 noon on the Thursday immediately prior to the regular meeting. This division is not applicable to special meetings.

(E) When an ordinance is introduced, it shall be read by title, after which the chair shall state "This is the first reading of the ordinance; if there is no objection by anyone in the Council Chambers, it shall be set for second reading." If there is no objection, the ordinance shall be set for second reading. If there is objection, it shall be in order for any Council member to make a proper motion for disposition of the ordinance.

(F) Any ordinance may be stricken from the files at any time before passage by a 2/3 vote of all Council members elected.

(G) Any ordinance failing to receive a sufficient number of votes will be considered as lost and stricken from the files, provided the vote is not reconsidered, as authorized by § 30.14(G)(10). All votes on the passage of ordinances and resolutions, and on motions to reconsider shall be by roll call.

(H) When a resolution is introduced, it shall be read by title only, after which, if there is no objection, it shall stand ready for adoption. If there is objection, it shall be in order for any Council member to make a proper motion for disposition of the resolution.

(I) No proposition to rescind or change any standing rule or order of the Council shall be passed at the same meeting it is submitted, nor shall any proposition having the force and effect of a by-law or a standing rule or the like relating to the government of the Council or the duties of any of the city officers be passed except in the form of an ordinance and according to the forms prescribed for the passage of ordinances.

(J) The effective date of all ordinances shall be prescribed therein; however, no ordinance shall become effective before publication thereof.

(K) Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction, the invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided the remaining portions or applications are not determined by the court to be inoperative and to this ordinance are declared to be severable.

(L) When a motion has been made and carried or lost, it shall be in order for any member of the prevailing side, as described at § 36(a) of the latest edition of *Robert's Rules of Order*, at the same or the next regular meeting, to move for the reconsideration thereof. Such a motion upon being made may be seconded by any Council member and may be made at any time. It shall be debatable and requires a majority vote of at least 5 votes to prevail.  
(1979 Code, § 30.15) (Ord. 3116, passed 7-2-1979; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 4441, passed 8-16-1999)

**§ 30.16 STANDING COMMITTEES.**

(A) (1) There shall be 6 standing committees of the Council as listed below:

(a) Finance; (The membership of this committee shall include all Council members when the civil city budget is being considered, and the chairperson shall be the Finance Committee Chairperson.)

- (b) Planning and Development;
- (c) Public Health and Safety;
- (d) Public Works and Improvement;

(e) Cultural Arts; and

(f) Internal Controls Committee.

(2) Each committee shall consist of not less than 3 members appointed by the Council President. Both the majority and minority shall be represented on each committee. The Council President shall designate the Chairperson and Vice-Chairperson of each committee.

(B) There shall be appointed from time to time special committees as determined by the Council president or a majority of the Council. Any special committees shall have at least 3 members who are appointed by the Council president.

(C) The general responsibilities of each Council committee shall include the right to review all legislative proposals, reports and other pertinent information under its jurisdiction; and to monitor on a continuing basis the department, and bureaus and public officials under its jurisdiction. Each Council committee shall report periodically to the Council. All committees shall also deal with the issues referred to them by the President of the Council or by at least a majority of the Council.

(D) The first named Council member of each committee shall be Chairperson and, in his or her absence, the next named member.

(E) A committee shall meet on the call of the Chairperson or by the call of any 2 of its Council members in case the Chairperson is absent or declines to call the meeting.

(F) A special committee, when its report, if made, is disposed of and it has no other business, stands dissolved without motion; but an affirmative vote on recommitment has the effect of reviving the committee.

(G) When any matter has been referred to a committee, the Council member introducing the same shall have the right to meet with the committee during its deliberations thereon, but shall not vote.

(H) The rules of the Council as far as they are applicable shall be the rules of the committee, and procedure in the committee where not otherwise provided herein, shall follow the procedure of the Council.

(I) The proceedings of the committee shall be recorded by the Chairperson of the committee in a journal which shall, among other things, show those present at each meeting and include a record of the votes on any question on which a record vote is requested.

(J) (1) The Chairperson in the case of hearings to be conducted by the committee shall make public, pursuant to the office of the City Clerk, the announcement of the date, place, the subject matter of any hearing to be conducted on any measure or matter at least 1 week before the commencement of that hearing unless the committee determines that there is good cause to begin the hearing at an earlier date.

(2) In the latter event the Chairperson shall make such public announcements at the earliest possible date, but in no event shall the public announcement be shorter than 48 hours before the hearing.

(K) Council committees are authorized to hold hearings, receive exhibits, hear witnesses and report to the Council for final action, together with such recommendations as may be agreed upon by the committee.

(L) It shall be the duty of the Chairperson of each Council committee to report, within 30 days, with the exception of the budget, to the Council on all ordinances, resolutions, reports or other matters referred to it for consideration; and each Chairperson shall take or cause to be taken the necessary steps to bring such matters to a vote of the Council.

(M) (1) All hearings of a Council committee are open to the public and can be covered by the news media.

(2) However, in order to assure a respect to the conduct of the public hearings observing acceptable standards of dignity, propriety, courtesy and decorum, and to assure the proper fact-finding mission through the hearing process, the Chairperson may provide special rules governing such matters as to placement of microphones, location of cameras and the allocation of space for representatives of the media in the hearing rooms as circumstances may require. (1979 Code, § 30.16) (Ord. 3116, passed 7-2-1979; Am. Ord. 3508, passed 1-17-1984; Am. Ord. 3923, passed 6-23-1989; Am. Ord. 4099, passed 1-25-1993; Am. Ord. 5753, passed 8-5-2019)

### § 30.17 ORDER OF BUSINESS.

The order of business of the regular meetings of the Common Council shall be as follows, unless the rule is suspended by a 2/3 vote of the Council:

- (A) Call to order, pledge and prayer, roll call;
- (B) Minutes of last scheduled meeting and special meetings;
- (C) Presentations and introductions;
- (D) Unfinished business:
  - (1) Reports of Council Committees;
  - (2) Ordinances on second and third reading;
  - (3) Resolutions referred to committees; and
  - (4) Tabled ordinances, resolutions and the like.
- (E) New business:
  - (1) Ordinances on first reading;
  - (2) Resolutions;

- (3) Vacation hearings;
- (4) Other new business;
- (5) Reports of Mayor, Board of Works or city departments;
- (6) Neighborhood association reports;
- (7) Privilege of the floor;
- (8) Scheduling of committee meetings.

(F) Acceptance of communications; and

(G) Adjournment.

(1979 Code, § 30.17) (Ord. 3116, passed 7-2-1979; Am. Ord. 3508, passed 1-17-1984; Am. Ord. 4904, passed 7-12-2005; Am. Ord. 5113, passed 6-16-2008)

### **§ 30.18 PARTICIPATION IN MEETINGS OF THE COUNCIL BY MEANS OF ELECTRONIC COMMUNICATION.**

(A) *Incorporation of state law.* The provisions of I.C. 5-14-1.5-1 *et seq.* (Act), including definitions, apply to this section.

(B) *Electronic Meetings Ordinance.* This section shall be known as the "Electronic Meetings Ordinance" of the Council and applies to the Council and any committee appointed directly by the Council or its presiding officer.

(C) *Participation by mean of electronic communication.* Subject to divisions (F) and (H) below, any member may participate in a meeting by any electronic means of communication that:

(1) Allows all participating members of the governing body to simultaneously communicate with each other; and

(2) Other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

(D) *Quorum and voting.* A member who participates by an electronic means of communication:

(1) Shall be considered present for purposes of establishing a quorum; and

(2) May participate in final action only if the member can be seen and heard.

(E) *Application of policy.* All votes taken during a meeting at which at least 1 member participates by an electronic means of communication must be taken by roll call vote.

(F) *Limitations on participation by electronic means of communication.*

(1) At least 50% of the members must be physically present at a meeting at which a member will participate by means of electronic communication;

(2) Not more than 50% of the members may participate by an electronic means of communication at that same meeting.

(3) A member may not attend more than 50% of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:

(a) Military service;

(b) Illness or other medical condition;

(c) Death of a relative; or

(d) An emergency involving actual or threatened injury to persons or property.

(4) A member may attend 2 consecutive meetings (a set of meetings) by electronic communication.

(5) A member must attend in person at least 1 meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (a) Military service;
- (b) Illness or other medical condition;
- (c) Death of a relative; or
- (d) An emergency involving actual or threatened injury to persons or property.

(G) *Minutes of meeting.* The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (1) Identify each member who:

- (a) Was physically present at the meeting;

- (b) Participated in the meeting by electronic means of communication; and

- (c) Was absent; and

- (2) Identify the electronic means of communication by which:

- (a) Members participated in the meeting; and

- (b) Members of the public attended and observed the meeting, if the meeting was not an executive session.

(H) *Prohibited actions.* No member of the Council may participate by means of electronic communication in a meeting at which the Council may take final action to:

- (1) Adopt a budget;
- (2) Make a reduction in personnel;
- (3) Initiate a referendum;
- (4) Impose or increase a fee;

- (5) Impose or increase a penalty;

- (6) Exercise the Council's power of eminent domain; or

- (7) Establish, impose, raise or renew a tax.

(I) *Emergency declarations.* If an emergency is declared by (1) the Governor under I.C. 10-14-3-12; or (2) the Mayor under I.C. 10-14-3-29:

- (1) Members are not required to be physically present for a meeting until the emergency is terminated; and

- (2) Members may participate in a meeting by any means of communication, provided that:

- (a) At least a quorum of the members participate in the meeting by means of electronic communication or in person;

- (b) The public may simultaneously attend and observe the meeting unless the meeting is an executive session;

- (c) The minutes or memoranda of the meeting must comply with division (G) above; and

- (d) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

(Ord. 5889, passed 2-14-2022)

### ***COUNCILMANIC DISTRICTS***

#### **§ 30.40 DIVISION INTO 6 DISTRICTS.**

The territory within the corporate limits of the City of Elkhart under existing ordinance is hereby divided into 6 Council Districts numbered One, Two, Three, Four, Five and Six. The boundaries of each Council District, as defined by reference to the most current voting precincts, are as follows:

(A) *District No. One:* Concord 02, Concord 03, Concord 06, Concord 07, Osolo 03, Osolo 05, Osolo 08, and part of Concord 10, east of 8th Street, north of Harrison Street.

(B) *District No. Two:* Cleveland 01, Cleveland 04, Cleveland 06, Cleveland 07, Concord 01, Concord 05, Osolo 01, Osolo 04, Osolo 06, and Osolo 07.

(C) *District No. Three:* Osolo 5, Osolo 09, Osolo 10, Osolo 11, Osolo 12, Osolo 13, Osolo 14, and Osolo 16.

(D) *District No. Four:* Concord 11, Concord 12, Concord 13 north of East Lusher Avenue, Concord 08, Concord 17, Concord 18, Concord 19 and Jefferson 01.

(E) *District No. Five:* Concord 25, Concord 16, Concord 23, Concord 21 south of West Hively Avenue and east of 8th Street, and Concord 13 south of East Lusher Avenue.

(F) *District No. Six:* Baugo 06, Concord 04, Concord 09, Concord 10 west of 8th Street, south of Harrison Street, Concord 14, Concord 15, Concord 21 west of South 6th Street, and Concord 22.

(1979 Code, § 30.40) (Ord. 2771, passed 12-16-1974; Am. Ord. 3383, passed 3-1-1982; Am. Ord. 4710, passed 10-21-2002; Am. Ord. 5325, passed 12-17-2012; Am. Ord. 5923, passed 9-12-2022)

the respective Council District. The 3 Council-at-large Councilpersons shall be elected by the voters of the entire City of Elkhart.

(1979 Code, § 30.41) (Ord. 2771, passed 12-16-1974; Am. Ord. 3383, passed 3-1-1982; Am. Ord. 4710, passed 10-21-2002; Am. Ord. 5325, passed 12-17-2012; Am. Ord. 5923, passed 9-12-2022)

***Statutory reference:***

*City primaries and elections, see I.C. 3-10-6-1 et seq.*

*Councilmen and councilmanic districts, see I.C. 36-4-6*

*Division of city into wards, see I.C. 36-4-6*

**§ 30.41 ONE COUNCIL MEMBER FOR EACH DISTRICT; 3 AT LARGE.**

Each Council District shall be represented in the Common Council of the City of Elkhart by 1 Councilperson, who shall be elected by the voters of

**CUMULATIVE SEWER FUND****§ 33.245 NECESSITY OF ESTABLISHING FUND.**

It is declared to be of indispensable public necessity to re-establish legally a cumulative building and sinking fund, hereinafter referred to as Cumulative Sewer Fund, to provide funds, to plan, construct, remodel, repair and extend storm sewers, and for relief sewers and drains in aid of the sanitary system or storm sewers of the city.  
(1979 Code, § 33.120) (Ord. 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.246 ESTABLISHMENT OF FUND.**

It is determined to re-establish, provide, and approve a Cumulative Storm Sewer Fund pursuant to I.C. 36-9-26-1 through 36-9-26-4 and, to provide for the Cumulative Sewer Fund, Council shall, at the appropriate time, levy a tax at the rate of \$0.20 on each \$100 of taxable property in the city.  
(1979 Code, § 33.121) (Ord. 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.247 EFFECTIVE DATE OF LEVY.**

The tax shall be first levied in 1988, payable in 1989, and annually thereafter for a total period of 4 years, including the levy in 1991, payable in 1992, and expiring thereafter as provided in I.C. 36-9-26-5.  
(1979 Code, § 33.122) (Ord. 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.248 PUBLIC HEARING; NOTICE.**

(A) The Council fixed October 3, 1988, at 7:00 p.m., E.S.T., as the date and time when the Council in the Council Chambers shall consider and determine to levy the tax, and the taxpayers of the city then and there had the right to be heard.

(B) The Council does direct the City Clerk, after introduction of this subchapter and before it is finally enacted, to give notice by publication in accordance with the provisions of I.C. 5-3-1, as amended, which notice shall set forth the text of this subchapter, that will include the proposed tax rate, and the year or years for which it is to be levied, and its purpose.  
(1979 Code, § 33.123) (Ord 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.249 APPROVAL OF STATE'S BOARD OF TAX COMMISSIONERS.**

(A) After the public hearing, and providing this subchapter is duly and regularly passed, the Council shall submit a copy of this subchapter, duly certified by the City Clerk, to the state's Board of Tax Commissioners for its consideration.

(B) This subchapter shall be in full force and effect upon receipt by the Auditor of Elkhart County, Indiana, of a certification from the state's Board of Tax Commissioners approving the tax levy at any amount not to exceed the levy proposed to be established.  
(1979 Code, § 33.124) (Ord. 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.250 DEPOSIT OF FUNDS.**

The taxes, when collected, shall be held in a public depository in a special fund to be known and designated as Cumulative Sewer Fund.  
(1979 Code, § 33.125) (Ord. 3644, passed 9-9-1985; Am. Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**§ 33.251 FUND USE CONFINED TO CITY LIMITS.**

Funds generated by this levy shall be used only on sewers within the confines of the city limits.  
(1979 Code, § 33.126) (Ord. 3875, passed 8-1-1988; Am. Ord. 3888, passed 10-3-1988)

**ENTERPRISE ZONE ALLOCATION FUND****§ 33.265 ESTABLISHMENT OF FUND.**

There is hereby established the city's Enterprise Zone Special Zone Fund.  
(1979 Code, § 33.130) (Ord. 3805, passed 6-1-1987)

**§ 33.266 DEPOSIT OF FUNDS.**

Until the end of the enterprise zone phaseout period, the city shall deposit each year in the Special Zone Fund any amount in the allocation fund derived from property tax proceeds in excess of those described in I.C. 36-7-14-39(b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in I.C. 36-7-14-39 (b)(3) for the year, all in accordance with the requirements of I.C. 36-7-14-39(g).  
(1979 Code, § 33.131) (Ord. 3805, passed 6-1-1987)

**§ 33.267 USE OF FUNDS.**

The monies in the Special Zone Fund, based on the recommendations of the city's Urban Enterprise Association, shall be used for programs in job training, job enrichment and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in I.C. 36-7-14-39(b)(3) as they pertain to that portion of the allocation area located in the enterprise zone. Those programs shall reserve at least ½ of their enrollment in any session for residents of the enterprise zone.  
(1979 Code, § 33.132) (Ord. 3805, passed 6-1-1987)

**CUMULATIVE CAPITAL DEVELOPMENT FUND****§ 33.275 REESTABLISHMENT OF FUND; DURATION.**

There is reestablished an Elkhart Cumulative Capital Development Fund. The Elkhart Cumulative Capital Development Fund is reestablished in perpetuity.  
(1979 Code, § 33.140) (Ord. 3809, passed 6-2-1987; Am. Ord. 3998, passed 9-10-1990; Am. Ord. 4121, passed 7-26-1993; Am Ord. 4563, passed 3-5-2001; Am. Ord. 4800, passed 12-16-2003; Am. Ord. 4958, passed 4-3-2006)

**§ 33.276 COLLECTION OF FUNDS.**

(A) An ad valorem property tax levy will be imposed annually, and the revenues from the levy will be retained in the Elkhart Cumulative Capital Development Fund.

(B) The maximum rate of levy under division (A) above will not exceed \$0.0500 per \$100 assessed valuation.  
(1979 Code, § 33.141) (Ord. 3809, passed 6-2-1987; Am. Ord. 3998, passed 9-10-1990; Am. Ord. 4121, passed 7-26-1993; Am. Ord. 4563, passed 3-5-2001; Am. Ord. 4800, passed 12-16-2003; Am. Ord. 4958, passed 4-3-2006; Am. Ord. 5492, passed 6-27-2016)

**§ 33.277 USE OF FUNDS.**

(A) The funds accumulated in the Elkhart Cumulative Capital Development Fund will be used as follows: Cumulative Fire Equipment Fund, as described in I.C. 36-8-14-2; and Cumulative Capital Improvement Fund, as described in I.C. 36-9-16-3.



## CHAPTER 39: CITY POLICIES

### Section

- 39.01 City credit card account; use of city credit cards
- 39.02 Payments by credit card
- 39.03 City to be governed by state law in order to receive available insurance proceeds
- 39.04 Internal control standards; materiality threshold
- 39.05 Conflict of interest
- 39.06 Responsible bidding practices and submission requirements for submitting bids to perform construction work on public works projects

(E) Only the Mayor or City Controller may permit a Director, department head or other employee to use a credit card issued on the city credit card account.

(F) The Mayor shall provide the City Controller with the name of the issuer of the credit card, the credit card account number and the expiration date of any card issued on the account.

(G) Whenever it is no longer necessary or prudent for a city employee to use a credit card in the performance of official city business, or immediately upon demand by the Mayor or his or her designee, such employee shall return the credit card to the Mayor or his or her designee.

### **§ 39.01 CITY CREDIT CARD ACCOUNT; USE OF CITY CREDIT CARDS.**

(A) The city is empowered to hold and maintain a credit card account for the use of its employees.

(B) The Mayor may apply for and obtain a credit card account to be used for purchases for the city only by following the procedures set out in this section. Any credit card account application shall be signed by the Mayor and the City Controller, provided that there shall be only 1 account open at any time. Any credit card account shall be in the name of the city.

(C) All credit cards issued on the city credit card account shall be applied for, held, maintained, and monitored by the Mayor or his or her designee.

(D) The Mayor shall be responsible for maintaining written guidelines regarding the use of said credit cards that are not inconsistent with this section.

(H) Charges shall only be made on the credit card to purchase items or services which are authorized and budgeted in the budget of the city.

(I) After each credit card use, the city employee who uses the credit card shall submit to the Mayor, or his or her designee, proper detailed documentation evidencing such use.

(J) Within 72 hours of returning to the office for normal business hours, the person using the credit card shall provide a copy of the credit card receipt and shall inform their supervisor in writing of the following:

- (1) The purpose of the purchase;
- (2) The line item from which the purchase is to be paid;
- (3) An itemized list of all charges incurred and whether those are paid from different budget line items.

(K) All credit card billing statements shall be sent by the issuer to the City Controller and the charges on the cards shall be paid by the City Controller from the appropriate budget line item pursuant to the claim procedures of the city.

(L) All claims for payment must be properly itemized and documented. Improperly itemized or documented charges, as well as all interest, carrying charges, and/or penalties shall be the personal responsibility of the city employee using the credit card.

(M) The Mayor, or his or her designee, shall ensure that a proper accounting system or log is maintained on all city credit card usage. This system or log shall include, at a minimum, the dates of credit card use, the identity of the users, the amounts and account numbers charged, and the dates of credit card issuance and return. City credit cards shall not be used to bypass the city's accounting system.

(N) The City Controller shall pay all charges incurred on the credit card account promptly so that no interest carrying charges or penalties will be incurred due to late payments. Any city employee who causes interest, carrying charges and/or penalties to be added to the credit card account by a failure to timely provide the required information to the City Controller shall be personally liable for the interest or carrying charge.

(O) The city is authorized to pay the annual fees, including membership fees, service fees or renewal charges, if any, associated with any credit card account opened in the name of the city pursuant to this section.

(P) City credit cards shall be used for city business only. No credit card issued to the city shall be used by any person for a private purchase.

(Q) Penalty. The penalty for violation of this section shall be a fine of not less than \$100, nor more than \$2,500 for a first violation of this chapter, and not less than \$100, nor more than \$7,500 for a second or subsequent violation of this section and each violation shall constitute a separate violation.

Any person found to be in violation of this section shall be required to compensate the city for any and all costs, including interest, carrying charges, and/or penalties incurred due to the violation of this section. In addition, any city employee found to be in violation of this section and fails to make restitution to the city shall be subject to disciplinary action, up to and including termination of employment.

(Ord. 5039, passed 6-4-2007)

### § 39.02 PAYMENT BY CREDIT CARD.

#### (A) *Office of Public Works.*

(1) The Office of Public Works is authorized to accept payments for its water and sewer services by credit card under and pursuant to the procedures set forth in I.C. 36-1-8-11, as the same may be amended from time to time.

(2) If there is a charge to the Office of Public Works for the use of a credit card to make such payments, the Office of Public Works may collect a flat fee established by the City Controller from the person using the credit card.

(3) The Office of Public Works shall apply the same uniform procedures established by the City Controller for all payments made by credit card.

#### (B) *Office of Parks and Cultural Resources.*

(1) The Office of Parks and Cultural Resources is authorized to accept payments for purchases made at its various facilities by credit card under and pursuant to the procedures set forth in I.C. 36-1-8-11, as the same may be amended from time to time.

(2) If there is a charge to the Office of Parks and Cultural Resources for the use of a credit card to make such payments, the Office of Parks and Cultural Resources may collect a flat fee established by the City Controller from the person using the credit card.

(3) The Office of Parks and Cultural Resources shall apply the same uniform procedures established by the City Controller for all payments made by credit card.

(C) *Office of Planning and Development.*

(1) The Office of Planning and Development is authorized to accept payments for permits, listings and registrations by credit card under and pursuant to the procedures set forth in I.C. 36-1-8-11, as the same may be amended from time to time.

(2) If there is a charge to the Office of Planning and Development for the use of a credit card to make such payments, the Office of Planning and Development may collect a flat fee established by the City Controller from the person using the credit card.

(3) The Office of Planning and Development shall apply the same uniform procedures established by the City Controller for all payments made by credit card.

(D) *Office of Finance.*

(1) The Office of Finance is authorized to accept payments for all items for which the Office of Finance has a responsibility to collect by credit card under and pursuant to the procedures set forth in I.C. 36-1-8-11, as the same may be amended from time to time.

(2) If there is a charge to the Office of Finance for the use of a credit card to make such payments, the Office of Finance may collect a flat fee established by the City Controller from the person using the credit card.

(3) The Office of Finance shall apply the same uniform procedures established by the City Controller for all payments made by credit card. (Ord. 5040, passed 6-4-2007)

**§ 39.03 CITY TO BE GOVERNED BY STATE LAW IN ORDER TO RECEIVE AVAILABLE INSURANCE PROCEEDS.**

The City of Elkhart is authorized to be governed by I.C. 27-2-15, for purposes of receiving available insurance proceeds payable under an insurance policy, based upon a claim for damage to, or loss of, a building or other structure caused by fire or explosion. (Ord. 5416, passed 12-1-2014)

**§ 39.04 INTERNAL CONTROL STANDARDS; MATERIALITY THRESHOLD.**

(A) *Internal Control Policy adopted.* The city hereby adopts the Internal Control Policy incorporated herein as Exhibit A, attached to Ordinance 5485, passed May 25, 2016.

(B) *Personnel training.* The Controller is directed to ensure that all personnel receive training concerning the internal control procedures adopted herein and approved prior to June 30, 2016.

(C) *Materiality threshold.* The city hereby adopts a materiality threshold of \$500 for purpose of its internal control procedures adopted and approved herein. (Ord. 5485, passed 5-25-2016)

**§ 39.05 CONFLICT OF INTEREST.**

(A) Nothing in this section shall be construed to restrict the Common Council, the Board of Zoning Appeals or the Plan Commission in the performance of their duties.

(B) *Definitions.* For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONFLICT OF INTEREST.** A direct or indirect financial interest in the issuance of a permit.

**PERMIT.** The meaning set forth in I.C. 36-7-4-110. At the time of adoption of this section the term means:

- (a) An improvement location permit;
- (b) A building permit;
- (c) A certificate of occupancy;
- (d) Approval of a site-specific development;
- (e) Approval of a primary or secondary plat;
- (f) Approval of a contingent use, conditional use, special exception or special use; or
- (g) Approval of a planned unit development.

**REPORT.** A written identification of the affected permit application and disclosure of the conflict of interest involved, signed and dated by the author.

(C) (1) Except as provided in division (C)(4) below, whenever the Building Commissioner has a conflict of interest in the issuance of a permit:

- (a) The Building Commissioner shall recuse himself or herself from the permitting process;
- (b) The Building Commissioner shall file a report of conflict of interest with the City Clerk;
- (c) The Building Commissioner shall deliver all related files to the Planning Director; and
- (d) The Planning Director shall oversee the issuance of the permit.

(2) Except as provided in division (C)(4) below, whenever the Planning Director has a conflict of interest in the issuance of a permit:

(a) The Planning Director shall recuse himself or herself from the permitting process;

(b) The Planning Director shall file a report of the conflict of interest with the City Clerk;

(c) The Planning Director shall deliver all related files to the Building Commissioner or his/her designated representative; and

(d) The Building Commissioner or his/her designated representative shall oversee the issuance of the permit.

(3) Whenever a Building Code official or inspector other than the Building Commissioner or the Planning Director has a conflict of interest in the issuance of a permit:

(a) Such person shall recuse himself or herself from the permitting process;

(b) Such person shall notify in writing his or her department head of the conflict of interest.

(4) Whenever the Building Commissioner or the Planning Director is authorized to oversee the permitting process pursuant to this section but is unavailable or unqualified:

(a) Such person shall recuse himself or herself from the permitting process;

(b) Such person shall file a conflict of interest report with the City Clerk, if applicable;

(c) The Mayor shall appoint a temporary replacement to oversee the permit; and

(d) All related files shall be delivered to the appointed temporary replacement.

(D) *Filing reports.* The City Clerk shall place reports received pursuant to this section in a separate ethics file and maintain them for at least 5 years.

(E) *References.*

(1) Except where a specific version or edition is given, reference to another section of this section or to a law, document, fund, program, department, commission, employee or public office, shall extend and apply to the same, as may be subsequently amended, elected, appointed, revised, remodified, renamed or renumbered from time to time.

(2) Reference in this section to a public servant, department, commission, committee, board or fund, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate by the words "(of the) City of Elkhart, Elkhart County, Indiana."  
(Ord. 5779, passed 12-2-2019)

**§ 39.06 RESPONSIBLE BIDDING PRACTICES AND SUBMISSION REQUIREMENTS FOR SUBMITTING BIDS TO PERFORM CONSTRUCTION WORK ON PUBLIC WORKS PROJECTS.**

(A) *Bid submission requirements.*

(1) Contractors proposing to submit bids on any City of Elkhart ("city") project estimated to be at least \$150,000 or more must, in order to be considered a "responsive" bidder, submit a statement with the bid, made under oath and subject to perjury laws, on a form designated by the city and must include:

(a) A copy of a print-out of the Indiana Secretary of State's online records for the bidder dated within 60 days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this division shall not apply;

(b) A list identifying all former business names within the last 10 years;

(c) Any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA);

(d) Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes, but may not limited to, evidence that each apprenticeship program has graduated at least 5 apprentices in each of the past 5 years;

(e) The name and description of the experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;

(f) A statement that all employees of the bidder who will perform work on the public works project will be in compliance with any drug testing requirements set forth in I.C. 4-13-18-5 or I.C. 4-14-18-6;

(g) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous 5 years of any professional or trade license held by the company, or of any director, office or manager employed by the bidder;

(h) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last 5 years;

(i) A statement that individuals who will perform work on the public works project on

behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;

(j) For contracts estimated to cost at least \$300,000, certification that all contractors and subcontractors are qualified under I.C. 4-13.4 or I.C. 8-23-10;

(k) A completed Contractor's Bid for Public Works - Form 96 (latest revision) prescribed by the State Board of Accounts, which includes a list of projects completed within the last year or currently under construction and a list of names and addresses of all subcontractors from whom the bidder intends to hire on any part of the public works project.

(2) The city reserves the right to demand supplemental information from the bidder, additional verification of any of the information provided by the bidder, and may conduct random inquiries of the bidder's current and prior customers.

*(B) Post-bid submissions from subcontractors.*

(1) Each subcontractor, of any tier, and regardless of the subcontract bid amount, shall be required to adhere to the requirements of division (A) above as though it were bidding directly to the city. Subcontractors shall submit the required information to the successful bidder, who shall then forward said information to the city prior to the subcontractor's first day of work on the public works project.

(2) Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the city. Additionally, the city may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

(3) The disclosure of a subcontractor ("disclosed subcontractor") by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or subcontractor may substitute another subcontractor ("substitute subcontractor") for a disclosed subcontractor by giving the city written notice of the name, address, and type of work of the substitute subcontractor. The substitute subcontractor is subject to all of the obligations of a subcontractor under this section.

*(C) Validity of pre-qualification classification.*

(1) When pre-qualification is required by the city, as specified within the project bidding documents, upon designation by the city that a contractor's or subcontractor's submission in anticipation of a bid is complete and timely, and upon any further consideration deemed necessary by the city, the contractor or subcontractor may be pre-qualified for future city public works projects. A contractor's classification as "qualified" shall exempt the contractor or sub-contractor from the comprehensive submission requirements contained herein for a period of 12 months.

(2) Any material changes to the contractor's status, at any time, must be replied in writing within 10 days of its occurrence to the city. The pre-qualification designation is solely within the discretion of the city and the city specifically reserves the right to change or revoke the designation for a stated written reason(s).

(3) Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within 7 working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the city within 5 business days of receipt of notice of denial.

*(D) Incomplete submissions by bidders.* It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the

public bid opening. Submissions deemed inadequate, incomplete, or untimely by the city shall result in the automatic disqualification of the bid.

(E) *Projects in good standing.* All projects the bidder currently has under contract with the city shall be in good standing. A responsive and responsible bidder shall have no city contract that is currently past contractual time limits, or assessed liquidated damages for any reason. The city may, through its City Engineer and Board of Public Works, in its sole discretion, classify a bidder non-responsive and disqualify a bidder for a period up to 2 years after liquidated damage is assessed.

(F) *Responsive and responsible bidder determination.* After its review of complete and timely submissions, taking into account all information in the submission requirements, the city shall in its sole discretion determine whether a bidder or subcontractor is responsive and responsible. The city reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by the city through its own independent verification of the information provided.

(G) *Certified payroll.*

(1) When requested by the city, for projects in which the cost is at least \$150,000, the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to the city within 10 calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

(2) The city shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or 1 or more other subcontractors to timely submit their certified payroll reports, unless federal or state funds are withheld from the city due to failure to submit certified payroll.

(H) *Public records.* All information submitted by a bidder or a subcontractor pursuant to this section, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (I.C. 5-14-3).

(I) *Penalties for false, deceptive, or fraudulent statements/information.* Any bidder that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the city shall be disqualified from bidding on all city projects for a period of 3 years.

(Ord. 5890, passed 2-14-2022)

## CHAPTER 50: WATERS AND WATER SUPPLY

### Section

#### *Water Rates and Charges*

- 50.01 Water rates and charges established
- 50.011 Nonrecurring charges
- 50.02 Charges for wastewater treatment of septic tank dumpings
- 50.03 Production, storage, transmission, sale and delivery or furnishing of water for fire protection purposes

#### *Water Utility*

- 50.10 Authorization
- 50.11 Purpose and intent
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### **WATER RATES AND CHARGES**

#### **§ 50.01 WATER RATES AND CHARGES ESTABLISHED.**

There are established for the use of and the service rendered by the waterworks system of the city



**Elkhart - Public Works**

the reoccurring rates and charges, based on the use of water or service supplied by the waterworks system:

(A) *Monthly metered rates.* Each customer shall be charged the following rates based upon the use of water supplied by the Municipal Water Utility. Customers will be billed in either ccf (ccf equals 100 cubic feet) or 100 gallons.

<i>Block schedule (as per 100 ccf)</i>	<i>Rates per 100 ccf</i>
First 40 ccf	\$1.47
Next 740 ccf	\$1.13
Next 680 ccf	\$0.90
Over 1460 ccf	\$0.76

<i>Block schedule (as per 100 gallons)</i>	<i>Rates per 100 gallons</i>
First 299 gallons	\$0.1965
Next 5535 gallons	\$0.1511
Next 5086 gallons	\$0.1213
Over 10920 gallons	\$0.1016

(B) *Service charge.* Each user is subject to the following service charge per month, which is added to the volume charge in excess of a minimum user.

<i>Meter Size (inches)</i>	<i>Monthly Rates</i>
5/8	\$2.26
3/4	\$2.47
1	\$3.03
1-1/2	\$4.61
2	\$6.81
3	\$13.13
4	\$21.99
6	\$47.26
8	\$82.64

(C) *Minimum charge.* Each user shall pay a minimum charge according to the following meter size, for which the user will be entitled to the quantity of water shown for each month. This charge includes the monthly service charge listed in division (B) of this section.

<i>Meter Size (inches)</i>	<i>Water Allowance CCF</i>	<i>Monthly Charge</i>
5/8	4	\$8.14
3/4	6	\$11.29
1	10	\$17.73
1-1/2	20	\$34.01
2	32	\$53.85
3	60	\$94.53
4	100	\$148.59
6	200	\$286.75
8	320	\$457.84

(D) *Municipal and public fire hydrants.*

(1) Each user shall pay a charge according to the following meter size as shown below.

<i>Meter Size (inches)</i>	<i>Annual Charge</i>	<i>Monthly Charge</i>
5/8	\$33.12	\$2.76
3/4	\$36.36	\$3.03
1	\$46.32	\$3.86
1-1/4	\$52.92	\$4.41
1-1/2	\$59.76	\$4.98
2	\$96.12	\$8.01
3	\$364.56	\$30.38
4	\$464.04	\$38.67
6	\$696.12	\$58.01
8	\$961.20	\$80.10

(2) Private fire hydrants - per hydrant.

Annual Charge	Monthly Charge
\$338.04	\$28.17

(E) Private fire protection service (automatic sprinkler system).

Line Size (inches)	Annual Charge	Monthly Charge
2	\$37.20	\$3.10
4	\$151.80	\$12.65
6	\$338.04	\$28.17
8	\$601.68	\$50.14
10	\$939.72	\$78.31
12	\$1,351.92	\$112.66

(F) Temporary users. Water furnished to temporary users, such as contractors and the like, shall be charged on the basis of the metered rates as metered or estimated by the utility manager. (1979 Code, § 50.01) (Ord. 2846, passed 1-26-1976; Am. Ord. 3309, passed 5-19-1981; Am. Ord. 3623, passed 5-20-1985; Am. Ord. 3968, passed 2-5-1990; Am. Ord. 4150, passed 12-20-1993; Am. Ord. 5048, passed 8-6-2007; Am. Ord. 5913, passed 6-6-2022)

§ 50.011 NONRECURRING CHARGES.

SCHEDULE OF NONRECURRING CHARGES	
Insufficient payment charge	\$16.00
Recording/release of water liens Liens are for assessment and tap contracts only	\$50.00
Trip charge per hour, minimum 1 hour <sup>1</sup>	\$25.00
After hours service call, minimum	\$75.00
Visit to reconnect service (turned off for cause)	\$25.00
Bacteriological analysis	\$32.00

SCHEDULE OF NONRECURRING CHARGES	
Fill swimming pool	\$125.00
Permanent disconnection permit	\$250.00
New customer deposit	\$54.30
Meter testing (5/8" - 1")	\$50.00
Damaged or lost meters	At cost
3" Fire hydrant meter and backflow deposit	\$2,000.00
Fire hydrant use, metered fee	See metered rates and page 1 of the tariff
Fire hydrant use, unmetered water fee	\$76.65/per hour
<b>Fee for illegal use of hydrant:</b> The fee for illegal use of hydrant will be \$900, plus recovery of charges for the amount of water stolen. Stolen water charges will be calculated using the utility's approved metered rates and charges. The amount of water stolen will be estimated by the utility's superintendent on a per incident basis.	
<b>Repair</b> <span style="float: right;">Time and materials</span> - Labor will be charged at \$25/\$37.50 per hour - Materials will be charged according to materials bid plus 20% handling fee. - Equipment will be charged according to established equipment charges.	
<b>Tap fees</b> Up to and including 1" <span style="float: right;">\$675.00</span> For taps greater than 1" <span style="float: right;">Actual cost</span>	
<sup>1</sup> Trip charge includes special meter reading, turn off or turn on sprinkling meter, missed appointments or other services requiring a trip to a customer's location.	

(Ord. 5106, passed 4-21-08; Am. Ord. 5652, passed 3-5-2018)

§ 50.02 CHARGES FOR WASTEWATER TREATMENT OF SEPTIC TANK DUMPINGS.

(A) There are established, for the use of and the service by the wastewater treatment plant of the city, the following rates or charges for the treatment of waste for septic tank dumpings:

<i>Truck Capacity</i>	<i>Base Charge</i>	<i>Laboratory</i>	<i>Office</i>	<i>Total</i>
500 gallons	\$ 7.50	\$4.50	\$3.00	\$15.00
600 gallons	\$9.50	\$4.50	\$3.00	\$17.00
700 gallons	\$11.50	\$4.50	\$3.00	\$19.00
800 gallons	\$13.50	\$4.50	\$3.00	\$21.00

**CHAPTER 76: PARKING; PARKING METERS**

Section

- Parking Regulations*
- 76.01 Definitions
  - 76.02 Employment of persons
  - 76.03 Board of Public Works authority
  - 76.04 Seven-day parking zones
  - 76.05 Maximum parking time
  - 76.06 Occupancy of single space
  - 76.07 Double parking prohibited
  - 76.08 Parking of large vehicles on public street
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  - 76.14 Enforcement remedies are non-exclusive
  - 76.15 Exemptions
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*Pierre Moran Shopping Center*

- 76.25 Definitions
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- 76.27 Unlawful parking
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- 76.45 Adoption of legal description
- 76.46 Adoption of contract
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- A/G Mart*
- 76.55 Definition
  - 76.56 Adoption of contract
  - 76.57 Unlawful parking
  - 76.99 Penalty

***PARKING REGULATIONS***

**§ 76.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***OFF-STREET PUBLIC PARKING SPACE.*** A portion of an off-street public parking zone so marked or lined as to define an area within which a single vehicle may be parked.

***PUBLIC PARKING SPACE.*** A portion of a public street so marked or limited as to define an area within which a single vehicle may be parked.

***VEHICLE.*** A device in, upon, or by which a person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.  
(1979 Code, § 76.01) (Ord. 2857, passed 4-19-1976; Am. Ord. 4846, passed 8-17-2004)

**§ 76.02 EMPLOYMENT OF PERSONS.**

The Board of Public Works and Safety of the city is authorized and empowered to employ persons for the purposes of issuing citation tickets for violations of all vehicle parking restrictions imposed by other ordinances of the city, both as to parking on public streets and as to parking on off-street lots owned or controlled by the city. All employees shall, by delivery of a copy of each ticket, report all violations to the Traffic Division of the Police Department of the city. No employee shall have any authority as or be deemed in any manner to be a commissioned member of that department, nor shall any employee be entitled to participate in or receive benefits under any pension plan or other similar program administered for the benefit of commissioned members of the Department. The Board of Public Works and Safety of the city is authorized and empowered to employ as many persons, at rates of compensation and on other terms and conditions as it determines, and to discharge any person, all in its sole discretion, to the end that the purposes of this section may be properly and effectively accomplished.

(1979 Code, § 76.02) (Ord. 2853, passed 4-19-1976)  
*Statutory reference:*

*Local regulation of standing or parking of vehicles, see I.C. 9-21-1-3*

**§ 76.03 BOARD OF PUBLIC WORKS AUTHORITY.**

(A) The Board of Public Works, in its reasonable discretion, is authorized to designate any public area(s) as no parking zone(s) to maintain or create site triangles, maintain or create space for turning movements and for any other purpose reasonably related to public safety. The Board of Public Works, in its reasonable discretion, is further authorized to designate parking zone(s) in public area(s) that prohibit van or truck parking, allow subcompact car parking only, or contain any other restrictions or prohibitions that are reasonably related to public safety.

(B) The Board of Public Works, in its reasonable discretion, is further authorized to designate no parking zones in public areas during specific time periods on specific days of the week in order to facilitate the orderly and safe collection of refuse in the city.

(C) All no parking zones and/or any other zones described in this section that have been designated by the Board of Public Works prior to the effective date of Ord. 4846 are hereby ratified and confirmed. (1979 Code, § 76.03) (Ord. 4846, passed 8-17-2004; Am. Ord. 4999, passed 11-20-2006)

**§ 76.04 SEVEN-DAY PARKING ZONES.**

All on-street and off-street public parking areas in the city that are not regulated in § 76.03, § 76.05 or Chapter 77, Schedules I–VII are hereby designated as 7-day parking zones. (1979 Code, § 76.04) (Ord. 4846, passed 8-17-2004)

**§ 76.05 MAXIMUM PARKING TIME.**

It shall be unlawful to, and no vehicle shall occupy any single 7-day public parking space designated at § 76.04 for a period of time exceeding 7 days.

(A) It is a defense to § 76.04 and this section that when a vehicle occupies a public parking space from seven to 30 days:

(1) The vehicle was parked for such period of time because the person(s) with legal control of the possession of the vehicle by ownership, lease or otherwise, was (were) physically absent from the city during all the subject period of time that the vehicle remained in the public parking space; or

(2) The vehicle was parked for such period of time because the person(s) with legal control of the possession of the vehicle by ownership, lease or otherwise, because of physical health, was unable to assure the removal of the vehicle within such period of time.

(B) It shall be unlawful to, and no vehicle shall occupy any single 24-hour on-street public parking space or 24-hour off-street public parking space designated in Chapter 77, Schedules I and II, for a period of time exceeding 24 hours.

(C) From 6:00 a.m. to 6:00 p.m., it shall be unlawful to, and no vehicle shall occupy any single 2-hour on-street public parking space or 2-hour off-street public parking space designated in Chapter 77, Schedules III and IV, for a period of time exceeding 2 hours.

(B) All employees of the city while operating a city vehicle within the scope of their employment. (Ord. 4846, passed 8-17-2004)

(C) §§ 76.03, 76.06, 76.10, 76.13, and 76.14 are non-exclusive and are all applicable to this section as if contained herein. (Ord. 5934, passed 11-21-2022)

**§ 76.16 REGULATION OF USE OF PARKING SPACES DESIGNATED FOR ELECTRIC VEHICLE CHARGING.**

(A) It shall be unlawful to park any non-electric vehicle in a parking space designated for electric vehicle charging.

(B) It shall be unlawful for an electric vehicle to occupy a parking space designated for electric vehicle charging unless the vehicle is engaged in the charging process. (Ord. 5934, passed 11-21-2022)

**§ 76.17 FEE FOR USE OF CITY-OWNED ELECTRIC VEHICLE CHARGING STATIONS.**

(A) Use of all city-owned electric vehicle charging stations is subject to a flat hourly rate of \$2 per hour.

(B) The city's electric vehicle charging stations located within the Central Park parking lot and the Gause parking lot were obtained, in part, through grant funding from the Indiana Department of Environmental Management under VW Project Funding Agreement Number VWL2-027. As a condition of the city's application for receipt of such grant funds, the city agreed to provide the first 2 hours of charging at the grant-funded charging stations at no cost to users for the first 2 years after its installation. The grant-funded charging stations are to be installed by no later than December 31, 2022. Thus, notwithstanding division (A), the city's electric vehicle charging stations located within the Central Park parking lot and the Gause parking lot shall provide the first two hours of charging at no cost through December 31, 2024.

***PIERRE MORAN SHOPPING CENTER***

**§ 76.25 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***PIERRE MORAN SHOPPING CENTER.*** Real estate located in the city which is more particularly described in Exhibit A of Ord. 4012, which is hereby incorporated by reference as if fully set forth by this subchapter. (1979 Code, § 76.25) (Ord. 4012, passed 11-19-1990)

**§ 76.26 FIRE LANES ESTABLISHED.**

The Pierre Moran Shopping Center, by its agents, may establish fire lanes adjacent to the buildings located on the property and erect signs identifying those fire lanes at its own expense. (1979 Code, § 76.26) (Ord. 4012, passed 11-19-1990)

**§ 76.27 UNLAWFUL PARKING.**

(A) No person shall stop, stand or park a motor vehicle, except in compliance with law or at the direction of a police officer, in a fire lane established by Pierre Moran Shopping Center.

(B) No person shall park a motor vehicle on the property of Pierre Moran Shopping Center at any time for a continuous period in excess of 24 hours. The parking shall be prohibited on the property as



described in Exhibit A of Ord. 4012, hereby incorporated by reference as if fully set forth by this subchapter.

(C) It shall be unlawful for any person to park a motor vehicle so as to occupy any portion of more than 1 parking space at one time, unless the size of the vehicle exceeds the size of any single parking space. Vehicles shall be parked in the parking spaces marked by painted lines on the parking pavement and at no other place.

(1979 Code, § 76.27) (Ord. 4012, passed 11-19-1990) Penalty, see § 76.99

#### § 76.28 MAXIMUM PARKING TIME.

Any motor vehicle parked in a fire lane or any vehicle parked in excess of 24 hours on the property described in Exhibit A of Ord. 4012, in violation of this subchapter may be towed from the property by representatives or agents of the city and caused to be stored at the expense of the owner or operator of the vehicle.

(1979 Code, § 76.28) (Ord. 4012, passed 11-19-1990) Penalty, see § 76.99

### *CONCORD MALL*

#### § 76.45 ADOPTION OF LEGAL DESCRIPTION.

Concord Mall, a Limited Partnership d/b/a Concord Mall, hereinafter referred to as "Concord Mall", owns certain real estate and improvements located in the city that are particularly described in Exhibit "A", attached to Ord. 4067, passed 7-6-1992, and incorporated herein by reference. The real estate and improvements shall hereinafter be referred to in this subchapter as the "real estate".

(1979 Code, § 76.35) (Ord. 4067, passed 7-6-1992)

#### § 76.46 ADOPTION OF CONTRACT.

A certain contract entered into by and between the Board of Public Works, the city and Concord Mall, that was executed by the Board of Works and Schostak Brothers & Company, Inc., a Michigan Corporation, as managing agent for Concord Mall, for the empowerment of the city to regulate the parking of vehicles and traffic at the Concord Mall, attached to Ord. 4067, passed 7-6-1992, is hereby approved and affirmed. The contract shall hereinafter be referred to in this subchapter as the "contract".

(1979 Code, § 76.36) (Ord. 4067, passed 7-6-1992)

#### § 76.47 FIRE LANES ESTABLISHED.

The Concord Mall, by its agents, may establish fire lanes adjacent to the buildings located on the real estate and erect signs identifying those fire lanes at its own expense.

(1979 Code, § 76.37) (Ord. 4067, passed 7-6-1992)

#### § 76.48 UNLAWFUL PARKING.

(A) No person shall stop, stand or park a motor vehicle, except in compliance with law or at the direction of a police officer, in a fire lane established by Concord Mall on the real estate.

(B) No person shall park a motor vehicle on the real estate at any time for a continuous period in excess of 24 hours. The parking shall be prohibited on the real estate.

(C) It shall be unlawful for any person to park a motor vehicle so as to occupy any portion of more than one parking space on the real estate at 1 time, unless the size of the vehicle exceeds the size of any single parking space. Vehicles shall be parked in the parking spaces marked by painted lines on the parking pavement and at no other place.

(1979 Code, § 76.38) (Ord. 4067, passed 7-6-1992) Penalty, see § 76.99

**§ 76.49 MAXIMUM PARKING TIME.**

Any motor vehicle parked in a fire lane or any vehicle parked in excess of 24 hours on the real estate may be towed from the property by representatives or agents of the city and caused to be stored at the expense of the owner or operator of the vehicle. (1979 Code, § 76.39) (Ord. 4067, passed 7-6-1992) Penalty, see § 76.99

**A/G MART**

**§ 76.55 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**A/G MART.** Real estate located in the city which is more particularly described in Exhibit A of Ord. 4327, which is hereby incorporated by reference as if fully set forth by this subchapter. (1979 Code, § 76.45) (Ord. 4327, passed 12-4-1997)

**§ 76.56 ADOPTION OF CONTRACT.**

The city, through its Board of Public Works, and John Applewhite, owner of A/G Mart, entered into a contract granting the city authority to regulate the parking at the parking area of A/G Mart. The contract is attached to Ord. 4327 as Exhibit C and is incorporated herein by reference and hereby approved and affirmed. (1979 Code, § 76.46) (Ord. 4327, passed 12-4-1997)

**§ 76.57 UNLAWFUL PARKING.**

(A) No person shall park a motor vehicle at the parking area at any time for any purpose other than to use A/G Mart as a customer, or to park as an employee of A/G Mart for A/G Mart employment reasons.

(B) It shall be unlawful for any person to park a motor vehicle so as to occupy any portion of more than 1 parking space at the parking area on the real estate at 1 time, unless the size of the vehicle exceeds the size of any single parking space. The vehicle shall be parked in the parking spaces marked by painted lines on the parking pavement and at no other place.

(C) Any motor vehicle parked at A/G Mart for reasons other than customer parking or employee parking as described in divisions (A) and (B) above may be towed from the property by representatives or agents of the city and caused to be stored at the expense of the owner/operator of the vehicle. (1979 Code, § 76.47) (Ord. 4327, passed 12-4-1997) Penalty, see § 76.99

**§ 76.99 PENALTY.**

(A) Any person who violates any provision of §§ 76.01 *et seq.* shall, upon adjudication or admission thereof, be punished as stated in this division. Violations of this subchapter are deemed to be continuing in nature and each coterminous period during which a vehicle remains parked in violation of this subchapter constitutes a separate violation. The registered owner of a vehicle parked in violation of §§ 76.01 *et seq.* is in violation of this subchapter to the same extent as the driver of the vehicle. Prosecution pursuant to this section can be made against the registered owner and/or driver and the prosecution of one does not bar the prosecution of the other.

(1) The schedule of penalties of violation of §§ 76.01 *et seq.* shall be:

(a) For the first coterminous violation, the sum of \$10 if paid in full within 72 hours from the time of the issuance of the ticket (citation).

(b) The sum of \$25 if paid in full after 72 hours from the time of the issuance of the ticket (citation) until such time as the notice of violation is sent to the City Attorney for prosecution.

(c) For each successive, coterminous violation, the sum of \$25 until such time as the notice of violation is sent to the City Attorney for prosecution.

(2) Each day a violation continues shall be considered as a separate offense. The city, in its discretion, may fine up to \$50 for repeat violations of this chapter. Violations herein may be prosecuted through the Ordinance Violations Bureau or through any other legal means.

(Ord. 4846, passed 8-17-2004)

(B) Any person who violates any provision of §§ 76.25 through 76.28 or §§ 76.45 through 76.49 shall be punished as stated in this division.

(1) When a ticket or citation for a violation of this subchapter is issued (except with respect to violations of handicapped parking space restrictions), the owner or operator of the vehicle in violation shall pay the sum of \$5 as a fine to the city within 30 days after the date shown on the ticket. Should the fine not be paid within 30 days, the fine shall increase to the sum of \$15.

(2) Violations of handicapped parking space restrictions shall result in fines of \$25 and should the fine not be paid within 30 days, the fine shall increase to the sum of \$50.

(3) After a complaint has been filed in a court of competent jurisdiction against the registered owner of the vehicle charging the person with a violation of one or more of the provisions of this chapter, that owner shall, upon conviction, pay the court costs of the proceeding and be fined not more than \$50 for each violation. All fines shall, pursuant to the terms of the contract as set out in Exhibit B of Ord. 4012 and the contract as set out in Exhibit B of Ord. 4067, which is hereby incorporated by reference as if fully set forth by this chapter, become the property of the city.

(1979 Code, § 76.99) (Ord. 4012, passed 11-19-1990; Am. Ord. 4067, passed 7-6-1992)

**Statutory reference:**

*Shopping center's right to regulate parking, see I.C. 9-21-18*

## CHAPTER 130: PERSONS AND PROPERTY

### Section

- 130.01 Careless or reckless handling of firearms
- 130.02 Selling brass knuckles or sling shots
- 130.03 Persons convicted of injuring certain property to make repairs
- 130.04 Possession of weapons in any municipal building containing a courtroom of the Elkhart City Court

#### **§ 130.01 CARELESS OR RECKLESS HANDLING OF FIREARMS.**

No person shall carelessly or recklessly handle or use any pistol, gun, musket or other firearm, in or about any house or other building in the city, upon the public streets or commons, or in the public parks, in the presence or sight of any other person, whether it is loaded or unloaded.

(1979 Code, § 130.03) (Ord. 276, passed 6-13-1900)  
Penalty, see § 130.99

#### **§ 130.02 SELLING BRASS KNUCKLES OR SLING SHOTS.**

No person shall sell, or offer or expose for sale within the city any brass knuckles, sling shots or weapons commonly known and called by these names. (1979 Code, § 130.07) (Ord. 276, passed 6-13-1900)  
Penalty, see § 130.99

#### **§ 130.03 PERSONS CONVICTED OF INJURING CERTAIN PROPERTY TO MAKE REPAIRS.**

Any person who has been convicted of injuring any street, alley, sidewalk, crosswalk or public place,

shall repair it to the satisfaction of the Street Commissioner within 24 hours, or the Street Commissioner shall make the repairs and collect the cost of the repairs from the offender.

(1979 Code, § 130.14) (Ord. 276, passed 6-13-1900)  
Penalty, see § 130.99

#### **§ 130.04 POSSESSION OF WEAPONS IN ANY MUNICIPAL BUILDING CONTAINING A COURTROOM OF THE ELKHART CITY COURT.**

(A) *Definition of weapon.* A **WEAPON, ARM or ARMAMENT** is any implement or device that can be used to inflict physical damage, harm, or kill. **WEAPONS** are used to increase the efficacy and efficiency of activities such as hunting, crime, law enforcement, self-defense, warfare, or suicide. In broader context, **WEAPONS** may be construed to include anything used to gain a tactical, strategic, material or mental advantage over an adversary or enemy target.

(B) Pursuant to I.C. 35-47-11.1-4(5), no person shall possess a firearm, or other weapon, in any building that contains a courtroom of the Elkhart City Court.

#### *(C) Exemptions.*

(1) Judicial officers are exempt from the application of this prohibition, under the provisions of I.C. 35-47-16-1;

(2) Law enforcement officers who are authorized to carry a firearm under I.C. 5-2-1, are exempt from the application of this prohibition, while

the law enforcement officer is engaged in the execution of the law enforcement officer's official duties.

(D) *Penalty.* Any person who violates this section shall be fined:

(1) \$500 on the first violation;

(2) \$1,000 on the second violation;

(3) \$2,500 on the third and every subsequent violation.

(Ord. 5925, passed 9-19-2022)

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National Standards Institute. The Board shall determine the general qualifications and fitness of the applicant for executing the class of work covered by the license applied for, provided that a person now holding an Elkhart Master Electrician Contractor's License will be issued a Class A license without further examination.

(B) (1) Each examination shall be conducted by a person designated by the Electrical Examining Board.

(2) A record of every examination given shall be kept on file until 1 year after the date of the examination.

(3) Any person who cheats during any examination given by the Electrical Examining Board shall be conclusively presumed unqualified and unfit for licensing pursuant to this chapter, and in addition thereto shall be guilty of a Class C infraction, punishable as provided under state statutes covering the infractions, and shall be disqualified from holding any license or applying for or taking any future examinations for licensing by the city as a licensed electrical contractor.

(C) Should an applicant fail to pass an examination at the rate established by the Electrical Examining Board for such purposes, the applicant may be reexamined upon submitting an application in writing with the requisite examination fee, if any, no less than 10 days prior to the examination date established by the Electrical Examining Board.

(1979 Code, § 157.14) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983; Am. Ord. 3581, passed 10-1-1984; Am. Ord. 5070, passed 12-3-2007; Am. Ord. 5888, passed 2-7-2022) Penalty, see § 157.999

#### § 157.020 HOLDER OF LICENSE.

The holder of the license shall be the person to whom the license is issued. A person shall not hold more than 1 license issued by the city at one time, nor act as the license holder for more than 1 firm or contractor under § 157.015 at the same time.

(1979 Code, § 157.15) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983) Penalty, see § 157.999

#### § 157.021 CHANGE OF REPRESENTATIVE.

Any holder of a license who is performing or supervising the installation, maintenance, alteration or repair of electrical equipment, or performing or supervising electrical work for a firm or corporation under § 157.015, whose employment with the firm or corporation shall terminate, shall immediately notify the Electrical Examining Board of that termination and the firm or corporation shall provide to the Board, within 10 days of the date of the notice, written notice of the name and address of the license holder replacing that person.

(1979 Code, § 157.18) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983) Penalty, see § 157.999

#### § 157.022 CERTIFICATE OF LICENSE.

(A) Each certificate for a license shall specify the name of the person to whom the license is issued, the name of the firm or corporation he or she is representing under § 157.015, the name of the person or persons designated as the factory representative, and the expiration date.

(B) Every holder of a license shall keep the certificate of license displayed in a conspicuous place in his or her principal place of business.

(1979 Code, § 157.17) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983) Penalty, see § 157.999

**§ 157.023 REVOCATION AND SUSPENSION OF LICENSES AND CERTIFICATES.**

(A) No license and certificate issued in accordance with the provisions of this chapter shall be assignable or transferable. In addition to the provisions of this chapter, any license may after a hearing be suspended for a definite length of time, or revoked by the Board of Review or Examining Board if the person holding a license willfully or negligently violates any ordinance of the city or any statute of the state relating to the installation, maintenance, alteration or repair of electrical equipment, or any orders, rules or regulations issued by authority thereof.

(B) Any license that has been revoked shall be reissued as a new license with all requirements of the same, upon the applicant's successful completion of the licensing requirements.

(1979 Code, § 157.18) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983; Am. Ord. 5070, passed 12-3-2007) Penalty, see § 157.999

***PERMITS***

**§ 157.035 PERMIT REQUIRED.**

(A) No electrical wiring or equipment shall be installed within or on any building structure or premises publicly or privately owned, nor shall any alteration or addition be made in any such existing equipment without securing a permit from the Electrical Inspector. A permit must be applied for before the start of work or within 72 hours after the start of work if the permit-issuing office is closed at the time work begins.

(B) An application for a permit describing the work to be done shall be made in writing to the Electrical Inspector by the person, firm or corporation installing the work. However, the following exceptions shall apply:

(1) Permits shall not be required for electrical work specifically exempted in §§ 157.001 and 157.015.

(2) A permit shall not be required for a license holder to connect, alter or install electrical equipment on the load side of a branch circuit provided that the work complies with the electrical rules and codes recognized by this chapter.

(1979 Code, § 157.25) (Ord. 1453, passed 6-1-1949; Am. Ord. 3295, passed 4-8-1981; Am. Ord. 3451, passed 5-2-1983; Am. Ord. 3460, passed 6-6-1983; Am. Ord. 5070, passed 12-3-2007)

**§ 157.036 FEES FOR PERMITS AND INSPECTIONS.**

Before any permit is granted for the installation or alteration of electrical equipment, the person, firm or corporation making application for the permit shall pay a fee of \$25, hereafter referred to as a minimum permit fee, or an amount derived from the following fee schedule, whichever is the higher amount.

(A) Electric service entrance equipment, single phase or 3 phase:

(1) Up to and including 100 amperes: \$35.

(2) Over 100 amperes, up to and including 200 amperes: \$40.

(3) Over 200 amperes, up to and including 400 amperes: \$50.

(4) Over 400 amperes, up to and including 800 amperes: \$100.



**Boundaries and Annexations**

20C

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5803	5-4-2020	Correcting scrivener's error in legal description in Ordinance 5794.
5812	7-20-2020	Annexing certain real estate commonly known as 2411 County Road 10 W and 28330 County Road 10 W into the city.
5829	12-21-2020	Annexing certain real estate commonly known as 1333 S. Nappanee Street into the city.
5832	3-1-2021	Annexing certain real estate commonly known as 23809 US 33, 23821 US 33, 23861 US 33, 23834 US 33 and 23845 US 33 into the city.
5841	5-17-2021	Annexing certain real estate commonly known as three lots at the northeast corner of W. Hively Avenue and S. 6th Street into the city.
5852	6-7-2021	Annexing certain real estate commonly known as 32.754 acres on the south side of Henke Street between Jeanwood Drive and Lane Street into the city.
5869	10-4-2021	Annexing certain real estate located in the southeast corner of the intersection of County Road 24 and State Road 19 into the city.
5879	11-1-2021	Annexing certain real estate commonly known as 28227 County Road 26 into the city.
5880	11-1-2021	Annexing certain real estate commonly known as the southwest corner of SR 19 and Charlotte Avenue, east of CR 24 into the city.
5892	3-7-2022	Annexing certain real estate commonly known as 25610 County Road 4 and 52396 County Road 9 into the city.
5901	4-4-2022	Annexing certain real estate commonly known as 6.13 acres of vacant land south of County Road 24 and east of State Route 19 into the city.
5933	11-7-2022	Annexing certain real estate commonly known as 29224 County Road 6 West into the city.
5937	1-23-2023	Annexing certain real estate commonly known as 53400 County Road 113 into the city.

## Zoning Map Changes

40G

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5638	1-8-2018	Rezoning real estate located at 1400 South Nappanee from B-1 to B-2.
5654	3-19-2018	Rezoning real estate located at the southeast intersection of County Road 6 and Stryker Street from PUD and R-1 to R-2.
5659	3-19-2018	Amending conditions of the Elkhart General Hospital PUD.
5664	5-7-2018	Rezoning real estate located at 512 Hallie Road from R-2 to R-4.
5670	5-21-2018	Amending conditions of the Mennonite Biblical Seminary/Mennonite Board of Education PUD.
5671	6-4-2018	Amending conditions of the Parkway at 17 PUD.
5672	6-4-2018	Rezoning real estate located at 3500 Cassopolis Street from R-1 to B-2.
5684	9-10-2018	Rezoning certain real estate located at vacant land on Emerson Drive from B-1 to B-2.
5707	12-17-2018	Rezoning real estate located at 750 County Road 15 from M-1 to B-2.
5738	6-3-2019	Amending planned unit development to allow construction of two apartment buildings containing a total of 28 dwelling units and 35 new parking spaces.
5747	7-1-2019	Rezoning certain real estate located at vacant lot on north side of Jackson Blvd., in the vicinity of vacated Clark Street and Pacific Street from R-2 and R-5 to CBD.
5748	7-1-2019	Rezoning certain real estate located at vacant land on Emerson Drive from B-2 to B-3.
5759	9-9-2019	Rezoning certain real estate located at 52440 County Road 101 from R-1 to M-1.
5760	9-9-2019	Rezoning certain real estate located at northwest corner of County Road 17 and Hoffman Street from B-2 to M-1.
5764	10-7-2019	Removing 1600 Osolo Road from the Planned Unit Development District and rezoning 1600 Osolo Road to R-2.
5776	11-4-2019	Removing real estate located at 3542 South Main Street from the Planned Unit Development and rezoning 3542 South Main Street to B-3.

## Elkhart - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5786	1-13-2020	Rezoning real estate located at 152 State Street and 156 State Street from R-2 to R-3.
5787	1-13-2020	Rezoning real estate located at 160 State Street from R-2 to R-3.
5788	2-3-2020	Rezoning real estate located at 2743 South Nappanee Street and vacant land southwest of Nappanee Street and Hively Avenue from M-1 to B-3.
5806	6-15-2020	Rezoning real estate located at vacant lot East Bristol Street (adjacent to 818 E. Bristol Street) from R-2 to O.
5828	12-21-2020	Rezoning approximately 28.5 acres south of Arlington Street between Cassopolis Street and Johnson Street from PUD to B-4.
5830	2-8-2021	Rezoning 1717 Fulton Street from R-2 to O.
5834	4-5-2021	Rezoning 23605 US 20 and 2704 Toledo Road from B-3 and PUD to M-1.
5839	5-3-2021	Rezoning 1313 W. Hubbard Avenue from R-3 to R-2.
5845	6-7-2021	Rezoning the lot west of 2014 E. Bristol Street from R-2 to B-1.
5846	6-7-2021	Rezoning approximately 16.2 acres at 123 County Road 17 from DPUD, M-1 to M-1.
5847	6-7-2021	Rezoning 1311 West Hubbard Avenue from R-3 to R-2.
5848	6-7-2021	Removing 2.3 acres of vacant land on Haines Drive from within Villas at Lexington Landing PUD and rezoning the same as Villas at Lexington Landing Phase II PUD.
5849	6-7-2021	Rezoning 8.34 acres of vacant land between the 2100 and 2200 blocks of Cassopolis Street from B-3 and M-1 to R-4.
5854	7-12-2021	Rezoning vacant land at the southwest corner of County Road 6 East and Elkhart East Boulevard from R-1 to M-1.
5857	8-2-2021	Amending Park Six PUD by changing the underlying standards from M-1 to B-3.
5877	11-1-2021	Rezoning the vacant lot adjacent to and east of 1440 South Nappanee Street from B-1 to B-2.
5891	2-14-2022	Rezoning 1637, 1643, and 1649 West Indiana Avenue from R-3 to R-2.
5897	4-4-2022	Rezoning 511 Division Street from M-1 to R-4.

## Zoning Map Changes

40I

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5898	4-4-2022	Rezoning 222 Middlebury Street from O to R-4.
5899	5-2-2022	Rezoning vacant land fronting Benchmark Drive and situated south of and adjacent to 5305 Beck Drive from M-2 to M-1.
5900	4-4-2022	Rezoning two vacant lots on Benham Avenue, directly south of 245 West Hively Avenue from R-4 to B-2.
5914	6-6-2022	Rezoning 1701 Sterling Avenue from M-2 to R-4.
5915	6-6-2022	Rezoning 1710 South Main Street from M-2 to R-4.
5922	8-15-2022	Rezoning a portion of Lot 45 of the Allendale Addition from M-2 to R-4.
5924	9-12-2022	Rezoning 111 West Bristol Street together with the surrounding contiguous vacant parcels from M-2 to B-2.
5936	1-23-2023	Rezoning 2200 - 2500 Blocks of Bypass Road from M-1 to B-2.
5939	3-6-2023	Rezoning Parkway at 17 DPUD – Phase III from B-3 to R-4.
5944	5-15-2023	Amending K-2 PUD by adding component assembly and warehousing distribution as permitted uses.
5945	5-15-2023	Amending Windsor Crossing PUD by adding hotel as a permitted use.
5948	7-10-2023	Rezoning the 1600 Block of Sterling Avenue from M-2 to R-4.
5949	7-10-2023	Rezoning the Concord Mall PUD from B-4 to R-4, B-2, and M-1.
5954	10-2-2023	Rezoning 3 parcels of vacant land on the north side of the 600 Block of West Garfield Avenue from R-2 and B-1 to R-4.
5955	10-2-2023	Amending K-2 PUD by adding high end technical service center for Super C motorhomes as a permitted use and repealing Ord. 5600.

Vacations

78A

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5524	10-17-2016	Vacating the portion of the alley running east from 18th Street between Fieldhouse Avenue and Markle Avenue.
5537	12-5-2016	Vacating the portion of the east-west alley running between Washington Street and Jefferson Street, and between North Main Street and the Elkhart River.
5605	8-7-2017	Vacating North Clark Street and Hannah Court.
5616	9-11-2017	Vacating the north/south alley west of Lots 437-440 and the east/west alley extending west of Lots 437-438 to Sixth Street in Chapman's Rosedale Addition.
5623	10-16-2017	Vacating the north/south alley between Country Club Drive and Modrell Avenue.
5655	3-19-2018	Vacating the eastern portion of Doll Court.
5658	3-19-2018	Vacating a part of Highland Avenue between Massachusetts Avenue and Lawn Avenue.
5662	4-16-2018	Vacating a part of Lawn Avenue between Highland Avenue and Arcade Avenue and a portion of two north-south alleys between Highland Avenue and East Boulevard.
5679	8-20-2018	Vacating a part of Hudson Boulevard running north and south between York Street and Folsom Street.
5706	12-17-2018	Vacating a part of the remaining alleys in John W. Fieldhouse's Subdivision and the north-south alley lying between John W. Fieldhouse's Subdivision and Hannah W. Clark's addition.
5724	4-1-2019	Vacating a portion of Clark Street from Elkhart Avenue extending north approximately 124 feet.
5755	8-19-2019	Vacating a portion of a 16.5-foot wide alley located adjacent to Lot 9 and Lot 10 in the Riverview Addition extending west of the intersection of a 12-foot alley between Lot 9 and Lot 7 of said Addition.
5813	8-3-2020	Vacating Easy Shopping Place, a public right-of-way situated between the north line of East Jackson Boulevard and the south line of Elkhart Avenue.
5840	5-17-2021	Vacating an alley adjacent to Lots 25, 26, 27 and 28 of the Spring Fountain Place Addition.

**Elkhart - Table of Special Ordinances**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
5867	10-4-2021	Vacating the east/west alley between 14th and 15th Street and a portion of 15th Street.
5886	1-3-2022	Vacating David Street, bounded on the west by the east right-of-way line of Plaza Court and bounded on the east by the west right-of-way line of State Road 19.
5896	3-21-2022	Vacating Wagner Avenue, between the east right-of-way line of Benham Avenue and the west right-of-way line of Chester Street.

**TABLE VII: CONTRACTS AND AGREEMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
3198	4-22-1980	Approving agreement between Board of Public Works and Safety for the purchase of real estate.
3199	4-22-1980	Approving agreement between Board of Public Works and Safety for the purchase of real estate.
3208	5-23-1980	Approving agreement between Board of Public Works and Safety for the purchase of real estate.
3209	5-23-1980	Approving agreement between Board of Public Works and Safety for the purchase of real estate.
3425	11-3-1982	Approving contract for parking regulations at Pierre Moran Shopping Center.
3744	9-9-1986	Entering a long-term land lease with Riblet Products.
4012	10-19-1990	Approving contract for parking regulations at Pierre Moran Shopping Center.
4067	4-7-1992	Approving contract for parking regulations at Concord Mall.
4101	4-5-1993	Prohibiting contracts with entities or individuals who are in violation of certain city ordinances.
4190	1-24-1995	Approving 50-year lease with 2 5-year options with Hawkeye Aviation, Inc.
4218	9-29-1995	Approving 10-year lease with 1 10-year option with Najeeb Khan.
4278	3-7-1997	Approving 30-year lease with 1 10-year option with Khan Aviation, Inc.
4413	3-9-1999	Approving contract for parking regulations at Pierre Moran Shopping Center.
4509	9-14-2000	Approving the leasing of sewage disposal facilities of Suburban Utilities, Inc. and approving the current rates and charges of Suburban Utilities, Inc.

## Elkhart - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
4510	9-11-2000	Approving the leasing of waterworks facilities of Suburban Utilities, Inc. and approving the current rates and charges of Suburban Utilities, Inc.
4553	12-18-2000	Approving, ratifying and confirming the addendums to the lease agreements between Suburban Utilities, Inc. and the city for sewage disposal and waterworks facilities.
4827	5-7-2004	Approving a contract for parking regulations at Easy Shopping Place and Easy Shopping South.
5121	9-8-2008	Approving the land lease for aircraft hangar between the Board of Aviation Commissioners for the City of Elkhart and Khan Aviation.
R-56-22	12-5-2022	Approving a collective bargaining agreement between the City of Elkhart and the Fraternal Order of Police, Lodge No. 52.
R-57-22	12-5-2022	Approving the collective bargaining agreement between the City of Elkhart and the American Federation of State, County, and Municipal Employees, Local Number 1484.



## REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
1-1-1-8	10.07
1-1-4-1	10.05, 10.06
3-10-6-1 <i>et seq.</i>	30.41
4-13-18-5	39.06
4-13.4	39.06
4-14-18-6	39.06
4-21.5	93.040, 93.088
4-21.5 <i>et seq.</i>	35.50
4-21.5-3-7	153.38, 155.11
4-21.5-5	36.201
5-2-1	130.04
5-2-5-7	31.002
5-2-8-2	31.002, 31.020
5-3-1 <i>et seq.</i>	97.176, 132.25
5-3-1	33.018, 33.021, 33.248, 99.07
5-3-1-1 - 5-3-1-9	95.065
5-4-1-5.1	32.001
5-4-1-8	32.001
5-4-1-13	32.001
5-4-1-18	32.001
5-4-1-18(b)	32.001
5-4-1-19	32.001
5-4-5-2	32.001
5-10.3-1-1 <i>et seq.</i>	32.015
5-13-5-1	33.475
5-13-5-5	33.475
5-13-6-1	33.475
5-13-9	33.502
5-13-9 <i>et seq.</i>	33.475
5-13-9.5 <i>et seq.</i>	33.475
5-14-1.5-1	97.177
5-14-1.5-1 <i>et seq.</i>	30.18
5-14-3	31.002, 39.06
5-14-3-2	31.002
5-14-3-5	31.002
5-14-3-8	31.002
5-14-3-8(d)	31.002
5-14-3-8(f)	31.002
5-14-3-8(g)	31.002
6-1.1-5	50.56

## Elkhart - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
6-1.1-12.1 <i>et seq.</i>	33.436
6-1.1-18.5-1 <i>et seq.</i>	33.167
6-3.5-1-1 <i>et seq.</i>	33.167
6-3.5-5-15	33.455
6-7-1-30.1	33.001
6-7-1-31.1	33.001
7.1-5-10-5	132.21
8-1.5-3-1 <i>et seq.</i>	31.105
8-1.5-3-3	31.105
8-1.5-5 <i>et seq.</i>	31.145, 31.150
8-1.5-5-1	31.145
8-1.5-5-4	31.146
8-1.5-5-5	31.149
8-6-7.7-2	95.099
8-14-16-4(a)	33.500
8-14-16-4(d)	33.502
8-14-16-5	33.501
8-16-3	33.002
8-16-3-1 - 8-16-3-3	33.036
8-16-3-3	33.037
8-22-2	36.002
8-23-10	39.06
9-3-1-3	31.016
9-13-2	95.060
9-13-2-1	95.060
9-18-12	95.066
9-18.1-18	95.066
9-18.5-34	95.066
9-21-1-2	70.055 - 70.056, 70.099
9-21-1-3	70.059, 70.075, 70.098, 71.017, 71.035, 71.076, 73.01, 76.02
9-21-2	70.055
9-21-3-8	70.101
9-21-4-11	70.061, 71.046, 71.047
9-21-5 <i>et seq.</i>	71.002
9-21-8-21	70.056, 71.015, 71.016
9-21-16-3	70.119
9-21-17-1	70.056
9-21-17-2	70.100
9-21-18	76.99
9-22-1	33.055, 95.061 - 95.063
9-22-1-1	95.066
9-22-1-19	95.064
9-22-1-21	95.065
9-30-5	33.316

<i>I.C. Section</i>	<i>Code Section</i>
9-30-11 <i>et seq.</i>	76.14
10-14-3-12	30.18
10-14-3-29	30.18
13-20-9-1(2)(A)	99.01
13-20-9-1(2)(A), (2)(B), (2)(C)	99.01
14-21-1-19	36.185
14-26-2	151.146
14-28-1	151.123
14-28-1-26	151.123
14-28-4	151.120
15-6-2-2	115.30
15-21	90.08
16-20-1	115.10
16-31-5	33.165 - 33.167, 33.337
16-39-9-3	31.002
16-42	132.22
22-9.5-2-10(b)	93.003
22-9.5-10	93.003
22-11-17	157.052
22-12-1-3	153.59
22-12-1-4	156.006
22-12-1-5	156.006
22-12-1-14	156.006
22-12-1-17	156.006
22-12-7	94.067, 153.03, 156.130, 158.12
22-13-2-2	157.003
22-13-2-7	153.38, 155.11, 157.999
22-13-2-7(b)	153.03
22-13-2-11	153.03, 156.130
22-15-3-1	153.16
22-15-3-7	153.15
22-15-4	153.04
23-13-2-7	156.056
23-14-33 - 23-14-76	92.01
25-1	156.023
25-28.5	156.023
25-28.5-1-2	156.006, 156.022, 156.023
27-2-15	39.03
31-6-4-15.7	131.16
31-37-3-2	131.15
31-37-3-3	131.15
31-37-3-4	131.15
31-37-19-27	131.16
32-30-7-7	132.31
32-30-8-10	132.31
32-34-1.5	95.065
33-6-3 <i>et seq.</i>	99.10

## Elkhart - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
33-36-2 <i>et seq.</i>	97.030, 151.266
33-36-3	99.10
33-37-5-2	31.002
33-37-5-3	31.002
33-37-7-12	31.002
34-7-5-1	10.12
35-9-2-7	97.071
35-42-2-1	132.21
35-42-2-2	132.21
35-44-3-3	132.21
35-45-1-3	132.21
35-45-4-2	132.21
35-45-4-3	132.21
35-45-5-1	132.21
35-47-11.1-4(5)	130.04
35-47-16-1	130.04
35-48	132.22
36-1-3	90.01
36-1-3-2	33.185
36-1-3-9	131.01
36-1-3-8(10)	36.148
36-1-3-8(a)(10)	10.99
36-1-8-3	31.023
36-1-8-11	39.02
36-1-11-1 <i>et seq.</i>	36.167
36-4-3-1.5	97.100
36-4-3-4	91.02
36-4-4-4	50.10
36-4-6	30.41
36-4-8-14	33.415
36-4-8-14(b)(13)	33.416
36-7-3-12	97.175
36-7-3-13	97.177
36-7-4	151.120
36-7-4-200 <i>et seq.</i>	36.056, 150.08
36-7-4-202	36.055
36-7-4-204	36.055
36-7-4-205	36.055
36-7-4-207	36.055
36-7-4-511	150.08
36-7-4-612	36.055
36-7-4-701	157.001
36-7-4-918.4	151.149
36-7-4-1000 <i>et seq.</i>	151.150
36-7-4-1003 <i>et seq.</i>	36.045
36-7-4-1109	39.05

<i>I.C. Section</i>	<i>Code Section</i>
36-7-7-1	31.076
36-7-9	153.50
36-7-9 <i>et seq.</i>	153.60
36-7-9-1 - 36-7-9-28	153.52
36-7-9-2	153.56
36-7-9-4	153.57
36-7-9-14	153.61
36-7-9-16	99.02
36-7-9-28	153.62
36-7-14-39(b)(1)	33.266
36-7-14-39(b)(3)	33.266, 33.267
36-7-14-39(g)	33.266
36-8-1-12	36.233, 36.243
36-8-2	90.01
36-8-3-20	31.015
36-8-3.5 <i>et seq.</i>	36.230, 36.231, 36.240, 36.241
36-8-3.5-6	36.230, 36.240
36-8-3.5-11	36.231, 36.241
36-8-3.5-11(a)	36.233, 36.243
36-8-4-10	36.232, 36.242
36-8-6	33.105
36-8-6-1	33.105
36-8-7	33.115, 33.118
36-8-14-1 - 36-8-14-4	33.016
36-8-14-2	33.277
36-9-2-6	97.071
36-9-2-7	131.01
36-9-16	33.002
36-9-16-3	33.277
36-9-16.5	33.002
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36-9-26-1 - 36-9-26-4	33.246
36-9-26-5	33.247
36-9-36	97.070
36-9-39	52.51
36-10-3	31.095

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5834	4-5-2021	T.S.O. V
5839	5-3-2021	T.S.O. V
5840	5-17-2021	T.S.O. VI
5841	5-17-2021	T.S.O. II
5845	6-7-2021	T.S.O. V
5846	6-7-2021	T.S.O. V
5847	6-7-2021	T.S.O. V
5848	6-7-2021	T.S.O. V
5849	6-7-2021	T.S.O. V
5852	6-7-2021	T.S.O. II
5854	7-12-2021	T.S.O. V
5856	7-19-2021	32.035
5857	8-2-2021	T.S.O. V
5864	9-20-2021	Adopting Ordinance
5867	10-4-2021	T.S.O. VI
5869	10-4-2021	T.S.O. II
5877	11-1-2021	T.S.O. V
5878	11-1-2021	153.75
5879	11-1-2021	T.S.O. II
5880	11-1-2021	T.S.O. II
5885	12-6-2021	32.035
5886	1-3-2022	T.S.O. VI
5888	2-7-2022	157.019
5889	2-14-2022	30.11, 30.13, 30.14, 30.18
5890	2-14-2022	39.06
5891	2-14-2022	T.S.O. V
5892	3-7-2022	T.S.O. II
5896	3-21-2022	T.S.O. VI
5897	4-4-2022	T.S.O. V
5898	4-4-2022	T.S.O. V
5899	5-2-2022	T.S.O. V
5900	4-4-2022	T.S.O. V
5901	4-4-2022	T.S.O. II
5913	6-6-2022	50.01
5914	6-6-2022	T.S.O. V
5915	6-6-2022	T.S.O. V
5922	8-15-2022	T.S.O. V
5923	9-12-2022	30.40, 30.41
5924	9-12-2022	T.S.O. V
5925	9-19-2022	130.04
5933	11-7-2022	T.S.O. II
5934	11-21-2022	76.16, 76.17
R-56-22	12-5-2022	T.S.O. VII
R-57-22	12-5-2022	T.S.O. VII
5936	1-23-2023	T.S.O. V
5937	1-23-2023	T.S.O. II

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
5939	3-6-2023	T.S.O. V
5944	5-15-2023	T.S.O. V
5945	5-15-2023	T.S.O. V
5948	7-10-2023	T.S.O. V
5949	7-10-2023	T.S.O. V
5954	10-2-2023	T.S.O. V
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**Elkhart Fire**  
500 East Street  
Elkhart, IN 46516

Phone: (574) 293-8931  
Fax: (574) 522-1023  
[Fire.Admin@Elkhartfire.org](mailto:Fire.Admin@Elkhartfire.org)



**Rodney Dale**  
*Fire Chief*

**Kristi Sommer**  
*Assistant Fire Chief*

---

*MEMORANDUM*

---

**DATE:** 10-17-2024  
**To:** Common Council  
**FROM:** Kristi Sommer, Assistant Chief  
**RE:** To secure funding for an Indiana Homeland Security Grant

---

The Elkhart Fire Department has received a \$60,000.00 grant from Indiana Homeland Security for the purchase of a birthing simulation mannequin. This equipment will enhance our training capabilities and improve emergency response related to childbirth.

To proceed with this initiative, we will need to secure the funding upfront. Please note that the reimbursement from the state will occur after the purchase is completed.

Kristi Sommer  
Assistant Chief

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE MAYOR OR HIS DESIGNEE TO SECURE AN INDIANA DEPARTMENT OF HOMELAND SECURITY GRANT IN THE AMOUNT OF SIXTY THOUSAND DOLLARS (\$60,000.00) FOR THE PURCHASE OF A BIRTHING SIMULATION MANNEQUIN FOR TRAINING PURPOSES BY THE ELKHART FIRE DEPARTMENT**

---

WHEREAS, the Indiana Department of Homeland Security (“DHS”) granted funds in the amount of Sixty Thousand dollars (\$60,000.00) for the purchase of a birthing simulation mannequin for training purposes by the City of Elkhart Fire Department; and

WHEREAS, the acquisition of the equipment will enhance the training capabilities and will improve the emergency response related to childbirth in the first response crew from the City of Elkhart Fire Department; and

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The Indiana Department of Homeland Security grant to the City of Elkhart, Indiana, for the purchase of a birthing simulation mannequin, in the amount of Sixty Thousand dollars (\$60,000.00), be, and hereby is, accepted and appropriated from the State Grant Fund (2404) and assigned to the following account line:

Account No. 2404-5-000-4440500	Name: Other Equipment	Amount: \$60,000.00
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Section 2. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor, as provided by law, and shall continue into successive years, provided the project is ongoing, and the funds appropriated herein, have not been exhausted.

Section 3. Pursuant to Ind. Code 6-1.1-18-7.5, relating to the appropriation of funds, designated as grant funds subject to state or federal reimbursement, the Common Council waives the provisions of Ind. Code 6-1.1-18-5, requiring publication of notice and public hearing, and fixes the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 6:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation.

SO ORDAINED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk





---

**M E M O R A N D U M**

---

**DATE:** November 4<sup>th</sup>, 2024  
**TO:** Council  
**FROM:** James Gerald, Information Technology Director  
**RE:** **Council Chamber Audio Video Upgrades**

---

The Information Technology Department requests approval of the Council Chamber Audio Video Upgrades project.

This project will include the design and installation of a new hybrid audio video system for the council chambers to operate in an automated or manned mode as required. This upgrade is expected to improve the efficiency and capability of the current system by expanding and automating processes. It will also aid us in improving ADA capabilities with a modernized hearing induction loop, larger screens for viewing, and transcription in Spanish and English.

This project will enhance our capabilities while allowing for vendor agnostic future expansion of the system as newer technologies evolve.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROPRIATING THREE HUNDRED TWENTY-FIVE THOUSAND AND 00\100 DOLLARS (\$325,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT TO UPGRADE THE AUDIO-VIDEO (AV) SYSTEM OF THE COMMON COUNCIL CHAMBERS AND OTHER IMPROVEMENTS**

---

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart (“City”) funds which may be used for certain authorized uses specified under Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

*(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*

*(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*

*(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*

*(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, the Audio-Video (AV) system in the Common Council chambers are outdated, inefficient, and not compatible with current technologies needed for the modern needs for the conduct of the meetings and communication with the community; and

WHEREAS, the passage of the American Rescue Plan Act presents a unique opportunity to replace the system which is in need of replacement; and

WHEREAS, the cost to replace the Audio-Video (AV) system in the Common Council chambers and other improvements is estimated to be Three Hundred Twenty-Five Thousand and 00\100 Dollars (\$325,000.00); and

WHEREAS, the Administration requests that the Common Council of the City of Elkhart appropriate the sum of Three Hundred Twenty-Five Thousand and 00\100 Dollars (\$325,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services account; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project; and

WHEREAS, the possibility exists that funds may remain if the project is completed under the budgeted and appropriated amount; and

WHEREAS, any ARP Coronavirus Local Fiscal Recovery Fund monies which are not dedicated to a committed and ARP-qualified project of the City must be returned to the federal government; and

WHEREAS, the LaSalle, McKinley & Benham Water & Sewer Project is an ongoing and dedicated project of the City, qualified for use of ARP Coronavirus Local Fiscal Recovery Funds, and which can utilize toward the qualified project costs, any funds which remain upon completion of the project for which this appropriation is made.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of Three Hundred Twenty-Five Thousand and 00\100 Dollars (\$325,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 2474-5-600-4390061 Provision of Government Services \$325,000.00

Section 2. If, upon completion of the project described in this appropriation ordinance, any portion of the Three Hundred Twenty-Five Thousand and 00\100 Dollars (\$325,000.00) remains unused, the remaining funds shall be transferred by the City Controller to the following account line for use in the LaSalle, McKinley & Benham Water & Sewer Project:

Account No. 176-5-000-442.0000 Utilities & Infrastructure

Section 3. The Common Council has fixed the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 6:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 4. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

*[Balance of page is intentionally blank.]*

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk



---

## MEMORANDUM

---

**DATE:** October 22, 2024

**TO:** Common Council

**FROM:** Michael J. Huber, Development Services Director

**RE:** Proposed Ordinance to Appropriate ARP Funds for Benham Neighborhood Plan Implementation

---

Ordinance number 5882 was passed by the Elkhart Common Council with the purpose of allocating \$75,000 from the City's ARP Coronavirus Local Fiscal Recovery Fund toward the completion of a Neighborhood Master Plan for South-Central Elkhart. In 2023/2024 the City Development Services Team worked in Partnership with the Elkhart Chamber of Commerce and the University of Notre Dame School of Architecture to facilitate a planning process to restore Benham West, regenerate the surviving community and reconnect activity within the neighborhood as well as to the city beyond. Multiple community organizations came together in funding the process collaboratively, and the City was not required to utilize the resources allocated with this ordinance.

Since the completion of the planning process, the Elkhart Chamber of Commerce has maintained a focus on seeing the implementation of the Plan strategies and has dedicated staff specific to leading a collaborative implementation effort in the community. The Chamber has applied for and received funding from the Community Foundation of Elkhart County to serve as a lead organization coordinating implementation efforts, ensuring productive collaboration and creating pathways for the private and public sectors to come together to implement the redevelopment of the Benham Neighborhood to its fullest potential.

Given the multitude of projects and activities that the Development Services Team are currently tasked with, it is challenging for our staff to maintain the level of focus on leading the full implementation efforts. The included scope details the specific tasks and timeline that the Chamber will be responsible for managing. Collaborating as an active partner in the process lead by the Chamber is structure that maximizes the City's abilities to contribute to implementation while minimizing some of the barriers that come from the City managing all aspects of the project.

The City of Elkhart Development Services Department is requesting the Elkhart City Common Council to consider a re-appropriation of Benham Neighborhood Planning ARP funds to allow the City to enter into a contract with the Chamber to manage the collaborative implementation process.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROPRIATING SEVENTY-FIVE THOUSAND AND 00\100 DOLLARS (\$75,000) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT TO COLLABORATE WITH THE ELKHART CHAMBER OF COMMERCE IN THE IMPLEMENTATION OF THE BENHAM NEIGHBORHOOD PLAN**

---

WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart (“City”) funds which may be used for certain authorized uses specified under Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

*(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*

*(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*

*(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*

*(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, in 2021 the Elkhart Common Council adopted Ordinance No. 5882, appropriating Seventy-Five Thousand Dollars (\$75,000.00) from the ARP Coronavirus Local

Fiscal Recovery Fund for use in completion of the Neighborhood Master Plan for South-Central Elkhart; and

WHEREAS, thereafter the Development Services Department worked in partnership with the Elkhart Chamber of Commerce and the University of Notre Dame School of Architecture to facilitate a planning process to restore the Benham West neighborhood, regenerate the surviving community, and reconnect activity inside and outside of the neighborhood; and

WHEREAS, the collaboration between the Development Services Department, the Chamber of Commerce and the Notre Dame School of Architecture, provided resources to the effort which allowed the City to accomplish the planning process without using the funds appropriated under Ordinance No. 5882; and

WHEREAS, subsequent to the planning process, the Elkhart Chamber of Commerce received partial funding from the Community Foundation of Elkhart County to serve as lead entity, in a continuing collaboration with the City of Elkhart, to coordinate implementation efforts, ensure a productive collaboration between the private and public sectors, to implement the redevelopment of the Benham Neighborhood as envisioned in the planning process; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund has retained the funds appropriated under Ordinance No. 5882, which can be used to further advance the objectives of the project; and

WHEREAS, the Administration requests that the Common Council of the City of Elkhart appropriate the sum of Seventy-Five Thousand and 00\100 Dollars (\$75,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to fund a further collaboration with the Elkhart Chamber of Commerce to serve as lead entity, in the ongoing collaboration with the City of Elkhart, specifically, to ensure a productive collaboration between the private and public sectors, in the



implementation of the redevelopment plan for the Benham neighborhood of the City of Elkhart;  
and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient  
and appropriate for the project; and

WHEREAS, the possibility exists that funds may remain if the project is completed under  
the budgeted and appropriated amount; and

WHEREAS, any ARP Coronavirus Local Fiscal Recovery Fund monies which are not  
dedicated to a committed and ARP-qualified project of the City must be returned to the federal  
government; and

WHEREAS, the LaSalle, McKinley & Benham Water & Sewer Project is an ongoing and  
dedicated project of the City, qualified for use of ARP Coronavirus Local Fiscal Recovery Funds,  
and which can utilize toward the qualified project costs, any funds which remain upon completion  
of the project for which this appropriation is made.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of Seventy-Five Thousand and 00\100 Dollars (\$75,000.00) be,  
and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned  
to the following account line:

Account No. 2474-5-600-4390061 Provision of Government Services \$75,000.00

Section 2. If, upon completion of the project described in this appropriation ordinance, any  
portion of the Seventy-Five Thousand and 00\100 Dollars (\$75,000.00) remains unused, the  
remaining funds shall be transferred by the City Controller to the following account line for use in  
the LaSalle, McKinley & Benham Water & Sewer Project:

Account No. 176-5-000-442.0000 Utilities & Infrastructure

Section 3. The Common Council has fixed the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 6:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 4. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

*[Balance of page is intentionally blank.]*

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

# Project Summary

## Benham Implementation Plan

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### Background and Community Need

In August 2023, the University of Notre Dame School of Architecture, in partnership with the City of Elkhart and the Greater Elkhart Chamber of Commerce, conducted its sixth Dean's Charrette. A charrette is an intensive planning session where architects, citizens, and community stakeholders collaborate to develop a vision for a project. The Elkhart charrette focused on strategies for affordable housing and future economic development for the Benham Neighborhood. By prioritizing collaboration with residents and stakeholders—starting with Benham—we will build and execute this vision together.

The Benham Neighborhood, a historically segregated and disadvantaged neighborhood, is an integral part of greater South Central Elkhart. Benham West was forcibly segregated in the 1920s yet became a thriving community for Black families and businesses. In the decades following, the Benham West neighborhood fell victim to urban renewal and experienced continual disinvestment. The Greater Elkhart Chamber is committed to facilitating and collaborating with key partners to ensure the reinvestment in this neighborhood to establish diverse housing options, programs to preserve the current housing stock, and vibrant public spaces.

It was vital that community voices were heard, and that their suggestions were recorded to make the final plan stronger. Engagement sessions and community presentations were held throughout a charrette process to ensure that residents and stakeholders were part of the process. Now with the charrette completed and next steps defined by the University of Notre Dame's School of Architecture, the redevelopment plan is complete and has been shared with residents and stakeholders in the community.

The release of the planning document is not a closing chapter for the Benham neighborhood, but rather a new beginning. Now it is time to begin implementing a new vision within this footprint to revitalize a once thriving neighborhood and bring it back to its original roots. When complete, this neighborhood will provide diverse housing and business opportunities for both residents and investors.

It is vital that there is an organization that takes the lead on implementation to ensure this vision comes to fruition. Community input and stakeholder engagement will be critical throughout the process, and collaboration will be key to implementation. The Greater Elkhart Chamber of Commerce intends to be the lead organization to ensure productive collaboration and create pathways for the private and public sectors to come together to implement the redevelopment of the Benham Neighborhood to its fullest potential.

## Goals for continued facilitation and collaboration

1. **Facilitate regular touch points with key partners** outlined in the master plan, including the City of Elkhart, Community Foundation of Elkhart County, Elkhart Housing Authority, Tolson Center for Community Excellence, Faith Mission, neighborhood churches, and many others.

Keeping to an agreed meeting cadence will provide the space for needed conversations surrounding coordinating timelines and projects, as well as accountability and updates on current projects. It is vital that residents of the neighborhood have representation at these meetings to reestablish trust, and to gain a deeper understanding of projects that can be shared with their neighbors.

2. **Be the leaders and host of publishing the most up-to-date information to keep the community informed.** In order to keep community and resident support during implementation, the sharing of information will be key. Access to recent updates related to the projects identified from the master plan will build momentum, leading to further engagement and investment into the neighborhood. A living website will be hosted by the Greater Elkhart Chamber that will be frequently updated, highlighting completed milestones and expectations for the future of the Benham Neighborhood.
3. **Provide gentle accountability to community partners** to ensure that the implementation of the project meets timeline expectations. As time moves forward, things happen and priorities can shift. The Greater Elkhart Chamber is prepared to be the force behind making implementation happen and coordinating with all relevant partners to make certain things get done.
4. **Lead and coordinate with private sector and investors** to enhance the plan in the open market. Examples include property acquisition and investing in new business opportunities made possible through future development.
5. **Work with key consultants** to develop strategies for implementing key aspects from the plan. Learn from best practice research gathered from throughout the country and work with experts that are proven leaders in the field of redevelopment of blight, infill housing and incremental development. Engaging with experts can ensure that lessons are learned from projects outside of Elkhart in order to learn from past mistakes and streamline the development process within the project area.
6. **Engage and educate existing residents** on ways they can get involved in their neighborhood. Alongside development, programming to support long term success will be vital. Programs to support homeownership, entrepreneurship, and incremental development will allow residents to take ownership and enhance their relationship with where they live.



## Potential Timeline

It should be noted that this project implementation is not a short process. Redevelopment of the Benham Neighborhood is expected to take years to complete. It is the anticipation that the Greater Elkhart Chamber will provide support for the foundation of the implementation, presumably over the next three years or so. These tasks are projected by year (please understand that some tasks will overlap):

- **Year One:**
  - Final Benham Neighborhood Master Plan public launch
  - Public website creation and release
  - Key meetings with selected property owners and organizations
  - Grant writing and support
  - Consultant selection and engagement
  - Programming development
  - Core team members selected for implementation
- **Year Two:**
  - Elkhart Housing Authority redevelopment finalized
  - Strategic property acquisition
  - Grant support secured
  - Creation and engagement surrounding support programming (i.e. homeownership, entrepreneurship, and incremental development)
  - 1000 Block of South Main and Freight Street redevelopment begins
- **Year Three and Beyond:**
  - Infill housing in Benham East
  - Benham West redevelopment
    - Programming for homeownership
    - Repairing street grid
  - Environmental remediation continuation of specific key properties

Public engagement was intentionally left off the list above because feedback is vital throughout every phase of implementation. The Greater Elkhart Chamber is committed to ensuring that the voices of the neighborhood are an important part of the equitable development process

## Team and Resources

The Greater Elkhart Chamber staff is prepared to take lead in the implementation of the Benham Neighborhood master plan, but the collaboration with community partners will be the key to success. Currently a list of partners has been identified for regular collaboration, but it is anticipated this is a living list and will grow as implementation moves forward:

### Key Partners

- Greater Elkhart Chamber of Commerce
- City of Elkhart

- Elkhart Housing Authority
- Community Foundation of Elkhart County
- Faith Mission
- Tolson Center for Community Excellence
- Elkhart Community Schools
- Neighborhood churches

## **Project Updates and Communication**

Regular, recurring project update meetings will occur between community partners. It is likely that a committee will take shape with the Chamber leading the helm, to ensure success in implementation. Outside of regular meetings, the Greater Elkhart Chamber will work closely with the City to understand the current projects to be able to communicate with the community about them. Project update meetings will occur regularly between the Chamber and the Community Foundation to present the status of the project and provide an opportunity for feedback.

## **Pivots**

It is anticipated that the tasks above will be completed, but it is important to note that needs could change once the development process begins. As the lead facilitator on the project, Greater Elkhart Chamber is prepared to shift and respond to challenges in real-time to ensure the success of implementation.



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## MEMORANDUM

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**DATE:** October 22, 2024

**TO:** Common Council

**FROM:** Michael J. Huber, Development Services Director

**RE:** Proposed Ordinance to Appropriate ARP Funds for the Institute for Entrepreneurial Communities

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Ordinance number 5883 was passed by the Elkhart Common Council with the purpose of allocating \$900,000 from the City's ARP Coronavirus Local Fiscal Recovery Fund toward activities related to a five year business strategy to attract and grow, not only the RV industry supply chain, but to diversify and develop other regionally relevant businesses including electronics, plastics, information technology and transportation and logistics with a focus on the West Business Park Area of the City. A specific opportunity that presented at the time of the allocation of the funds was a program offering of the Indiana Economic Development Corporation (IEDC) known as the Emerging Manufacturing Collaboration Center (EMC2) program. This was based on a model initiated outside of Indianapolis with a goal of identifying opportunities to replicate the model in other parts of the state. However, due to multiple staff and administrative changes within the IEDC, the EMC2 program and its funding was incorporated into other IEDC program opportunities.

Entrepreneurship is at the heart of Elkhart's economic history. Local leaders and innovators from within our community have shaped the future of regional and global industry, and have laid the footprint by which we live and work in our community. Entrepreneurship also holds the key to our ability to meet our future industry diversification goals. Nationwide entrepreneurship has experienced ebbs and flows in the past few decades. Entrepreneurship is often measured in startups, yet, long-term success of proprietary businesses may be a far stronger indicator of successful entrepreneurship. And, despite the recent uptick in startup activity, we acknowledge the potential fragility of entrepreneurship that threatens a key driver of economic strength for American communities.

The Institute for Entrepreneurial Communities (IEC) aims to identify and study communities that are long standing hotbeds of entrepreneurship and then to understand the impact of entrepreneurship on all aspects of the community. This Institute is taking a unique look into the interplay between entrepreneurs within a community, seeking to understand why entrepreneurship flourishes within specific regions across the United States. At present, most research measures startups, which includes sole proprietors. Yet sustained entrepreneurship with significant employment makes the strongest



impact on vibrant communities. The Institute has enlisted top researchers from various universities to initiate innovative research on a pilot community that has long been considered a hotbed of entrepreneurial activity. The pilot community has a legacy of successful entrepreneurship serving many industries. Although it is a comparatively small county, it is among the highest performing counties in terms of industry - Elkhart, Indiana. The Institute has engaged in quantitative research with academic institutions such as Ball State University, Butler University, and The Catholic University of Americas to further our understanding of entrepreneurial communities and success factors.

The Institute is an initiative envisioned and advised by civic leaders and successful entrepreneurs in Elkhart, Indiana. Operations of the Institute are led by enFocus Inc under the direction of Andrew Wiand, President. The Institute is led by a board of local advisors who are responsible for setting the direction and guiding the operations team, including the following individuals:

- Liz Borger, Stifel
- Ryan Brady, Alliance RV
- Ashley Martin, NIBCO
- Jack B. Smith, Jr., Gaska Tape
- David Smith III, Talon Products

As a collaborator in the institute, the City will gain tremendous insight and value derived by the research components of the Institute's work. This research is designed to offer a deep understanding of how firm structures and industry clusters influence regional economic well-being, providing valuable insights for both entrepreneurs and economic development leaders. Additionally, the research should shed light on the complex dynamics of entrepreneurship, with a particular focus on how quality of life and local amenities shape the entrepreneurial landscape across the United States. As the City is faced with the threat of future job losses related to automation of many manufacturing work processes, a thorough understanding of the entrepreneurial ecosystem can help the guide the City to identify future industry clusters for Elkhart's economy 4.0.

The City of Elkhart Development Services Department is requesting the Elkhart City Common Council to consider a re-appropriation of \$150,000 from the West Business Park Expansion ARP funds to allow the City to enter into a contract with the Institute for Entrepreneurial Communities to implement ongoing research activities related to strengthening our local ecosystem and guiding future cluster investments.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROPRIATING ONE HUNDRED FIFTY THOUSAND AND 00\100 DOLLARS (\$150,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE NEGATIVE ECONOMIC IMPACT ACCOUNT TO FUND A COLLABORATION WITH THE INSTITUTE FOR ENTREPRENEURIAL COMMUNITIES**

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WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart (“City”) funds which may be used for certain authorized uses specified under Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

*(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*

*(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*

*(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*

*(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, entrepreneurship is at the heart of Elkhart's economic history; and, notwithstanding the City's proud entrepreneurial past and the recent increase in new entrepreneurial activity, the Common Council recognizes the fragility of entrepreneurship and the threat that complacency poses to the continuation of economic growth for all American communities, and Elkhart, in particular; and

WHEREAS, the Institute for Entrepreneurial Communities (IEC) is a local initiative, formed by civic leaders, and a group of highly successful local entrepreneurs, have agreed to collaborate with various accomplished academic researchers from various universities in a study to identify and understand the impact of entrepreneurship on all aspects of the community, and the factors which cause entrepreneurship flourishes within specific communities and regions across the United States; and

WHEREAS, the City of Elkhart Development Services Department has requested that the Common Council appropriate One Hundred Fifty Thousand and 00\100 Dollars (\$150,000.00) to allow the City to contract with the Institute for Entrepreneurial Communities to advance ongoing research activities related to opportunities to strengthen our local ecosystem and guide future cluster investments; and

WHEREAS, the Department of Development Services believes that a collaboration with the Institute for Entrepreneurial Communities will allow the City of Elkhart to gain valuable insights from the research components of the Institute's work and shed light on the complex dynamics of entrepreneurship, with a particular focus on the ways in which quality of life and local amenities shape the entrepreneurial landscape across the United States; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project; and

WHEREAS, the possibility exists that funds may remain if the project is completed under the budgeted and appropriated amount; and

WHEREAS, any ARP Coronavirus Local Fiscal Recovery Fund monies which are not dedicated to a committed and ARP-qualified project of the City must be returned to the federal government; and

WHEREAS, the LaSalle, McKinley & Benham Water & Sewer Project is an ongoing and dedicated project of the City, qualified for use of ARP Coronavirus Local Fiscal Recovery Funds, and which can utilize toward the qualified project costs, any funds which remain upon completion of the project for which this appropriation is made.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of One Hundred Fifty Thousand and 00\100 Dollars (\$150,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 2474-5-000-4390501    Negative Economic Impact    \$150,000.00

Section 2. If, upon completion of the project described in this appropriation ordinance, any portion of the One Hundred Fifty Thousand and 00\100 Dollars (\$150,000.00) remains unused, the remaining funds shall be transferred by the City Controller to the following account line for use in the LaSalle, McKinley & Benham Water & Sewer Project:

Account No. 176-5-000-442.0000    Utilities & Infrastructure

Section 3. The Common Council has fixed the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 6:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 4. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

*[Balance of page is intentionally blank.]*

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk



in partnership with:



Compiled by:  
Shivangi Tiwari, Financial Analyst  
Ayush Sindhwani, Innovation Fellow  
October 2024



# Exhibit A: Initiative Summary

## Institute for Entrepreneurial Communities

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### Background and Need

The Institute for Entrepreneurial Communities (IEC) aims to identify and study communities that are long standing hotbeds of entrepreneurship and then to understand the impact of entrepreneurship on all aspects of the community. By examining Elkhart as a pilot community, the Institute is taking a unique look into the interplay between entrepreneurs within a community, seeking to understand why entrepreneurship flourishes within specific regions across the United States.

The City of Elkhart, renowned for its entrepreneurial spirit, is sponsoring research led by the Institute. The research projects will focus on identifying and analyzing key drivers of entrepreneurial success within Elkhart, which outperforms many in terms of industry clusters despite its relatively small population. Nationwide entrepreneurship has experienced ebbs and flows in the past few decades. The Institute's purpose is to honor the civic impact of innovation by recognizing thriving communities to perpetuate the cycle of entrepreneurship.

This is particularly important and relevant for the City of Elkhart's economic development priorities. Through the sponsored research, academic partners aim to study not just the impact of startups which is most commonly used as a measure of entrepreneurship but also understand the factors and impact of sustained businesses which may be a far stronger indicator of successful entrepreneurship.

Additionally, the Institute also aims to celebrate the entrepreneurial spirit present within the City of Elkhart by celebrating the research findings and hosting signature events that will bring together entrepreneurs, academics, civic leaders, and students. Headquartered in the City of Elkhart, the Institute will serve to increase awareness and appreciation for the positive impact of entrepreneurship on American communities





## Objective

By analyzing local industry clusters and entrepreneurial activity, the research aims to provide insights into how sustained entrepreneurship can drive economic and social well-being in the future within the City of Elkhart and in comparable regions.

## Preliminary Scope & Approach

The research will entail a quantitative deep dive into the City of Elkhart (or Elkhart County based on the Census MSA data availability). The approach includes:

- Conducting a literature review on entrepreneurship and its definition.
- Collecting and analyzing historical data on industry clusters.
- Provide a data-driven approach to identifying factors contributing to Elkhart's entrepreneurial success.
- Benchmark Elkhart County's performance against other similar communities to understand its comparative strengths and opportunities for growth.

The research, through collaboration with academic partners, will align with the IEC's mission and the City of Elkhart's priorities.

### Key Activities:

#### *Literature Review and Definition of Entrepreneurial Communities:*

- Conduct a literature review on entrepreneurial communities and summarize definitions and parameters.
- Study quality of life factors, amenities, and their impact on entrepreneurial activity from 1990-2020.

#### *Data Collection and Analysis of Entrepreneurial Archetypes:*

- Collect and analyze county-level data across the U.S. on entrepreneurial community parameters, clustering, and quality of life indicators.
- Develop archetypes based on industry clusters, linking them to quality of life and economic factors.
- Identify the archetype that Elkhart falls in and others that may be similar to Elkhart.

#### *Analysis of Entrepreneurship and Quality of Life:*

- Analyze quality of life and amenity distribution impacts on entrepreneurial activity from 1990-2020 across counties, in particular Elkhart.
  - These include, but would not be limited to, work at home, self-employment, new business starts, and small business growth as proxies for entrepreneurship.
- Compare quality of life impacts across different geographies (e.g., rural, urban) and analyze the influence of local amenities.
- Evaluate the role of state/local taxes on entrepreneurial growth, assessing both ecosystem (quality of life) and tradable clusters.

#### *Benchmarking and Comparative Analysis:*

- Benchmarking Elkhart County's performance against similar counties or regions in terms of industry clusters, entrepreneurship, and economic growth.
- Identifying strengths, weaknesses, and opportunities for Elkhart's continued development as an entrepreneurial hub.

#### *Presentation and Publication of Findings:*

- Prepare a detailed research report summarizing findings, benchmarking analysis, and stakeholder insights.
- Share findings with the City of Elkhart and other stakeholders.
- Present insights through academic publications and celebratory events.

#### **Key Research Deliverables:**

- **Research Report and Business Article(s):** A detailed research report and co-published business articles including findings specific to Elkhart. The report will identify the success factors for Elkhart's entrepreneurial spirit and the ability to impact policy to continue the trend.
- **Benchmarking Analysis:** A comparative analysis that benchmarks Elkhart County's performance against other counties, highlighting unique factors contributing to its success. Additionally, communities similar to Elkhart will be identified.
- **Presentation to Stakeholders:** A final presentation summarizing the research findings, key insights, and recommendations for the City of Elkhart, IEC, and other community stakeholders, as appropriate. The timeline of the presentation from Butler University and Ball State University research partners will be late 2024 through Spring of 2025 as required by City of Elkhart stakeholders.

## **Sponsorship**



This initiative supported by the City of Elkhart is for \$150,000 to be used for research sponsored by the Institute for Entrepreneurial Communities and celebratory events within the City of Elkhart due at the execution of the contract.

## **Team and Resources**

The Institute has engaged with academic institutions such as *Ball State University*, *Butler University*, and *The Catholic University of Americas* to further our understanding of entrepreneurial communities and success factors. By building a strong network of academic partners, the Institute aims to conduct objective research to showcase anecdotal knowledge to data-driven findings.

## **Communications Management Plan**

To ensure seamless communication throughout the project, the Institute proposes that communications be carried out as detailed below:

- Ad-hoc communication: As necessary, the Institute will communicate with the City of Elkhart's Development Services department to share findings via email, telephone communications, and update meetings.
- Deliverable validation: Meeting at the completion of the research projects to review deliverables.

## **Pivots**

enFocus and Institute for Entrepreneurial Communities place value on our entrepreneurial focus and approach to projects. We have had historical success for sponsors when we reserve the option to initiate conversation with the sponsor for a project pivot when we see a better path or opportunity to pursue that can lead to greater success. This is not meant to negate the project responsibility of the Institute for Entrepreneurial Communities, but rather to create a scenario that will produce the most valued outcome for all parties. Institute for Entrepreneurial Communities and the City of Elkhart will agree to any project pivot(s) in advance.



# Letter of Engagement

## Research Sponsorship Terms

We want you to understand the basis under which we agree to fund you and your research, as well as to clarify the relationship and responsibilities between your organization and the Institute of Entrepreneurial Communities. These terms are part of our engagement letter and apply to all future services, unless a specific engagement letter is entered for those services. Each of these terms shall survive and apply after termination of this agreement.

### RESEARCH AGREEMENT

This Agreement (the "Agreement") is entered on or about the 29th day of October 2024, by and between City of Elkhart, having its principal offices at [Address] (hereinafter referred to as "Sponsor"), and enFocus Inc., d/b/a the Institute for Entrepreneurial Communities, having its principal offices at 635 S Lafayette Boulevard, South Bend, IN 46601 (hereinafter referred to as "Beneficiary").

WHEREAS, the Sponsor desires to obtain the services of Beneficiary on its own behalf and on behalf of all existing and future Affiliated Companies (defined as any corporation or other business entity or entities that directly or indirectly controls, is controlled by, or is under common control with the Sponsor), and Beneficiary desires to provide services to the Sponsor upon the terms and conditions in this Agreement.

### AGREEMENTS

#### SECTION 1 – RESEARCH PERIOD

(a) Term - The Sponsor hereby retains the Beneficiary and Beneficiary agrees to render to the Sponsor those services described in the Initiative Summary, Exhibit A, incorporated by reference and attached hereto, for the period (the "Contractual Period") commencing on [start date] and ending on [end date.]

(b) Termination - At any time, either party may terminate, without liability, the Contractual Period for any reason, with or without cause, by giving 60 days advance written



notice to the other party. The Sponsor shall pay Beneficiary the compensation to which the Beneficiary is entitled pursuant to Exhibit A.

## **SECTION 2 – DUTIES AND RESPONSIBILITIES**

(a) Beneficiary hereby agrees to provide and perform for the Sponsor those services set forth in Exhibit A.

(b) Sponsor hereby agrees to provide compensation and reimbursement for travel and other reasonable business expenses incurred by Beneficiary under the scope of this agreement if and only if negotiated in advance with the Sponsor.

## **SECTION 3 – COMPENSATION, PAYMENT, BENEFITS**

(a) Compensation in consideration of the services to be rendered hereunder, including, without limitation, services to any Affiliated Company, Sponsor shall pay a project fee of \$150,000 dollars to Beneficiary and reimburse travel incurred by the Beneficiary, as detailed in Exhibit A.

(b) Payment Terms. Sponsor agrees to pay dollars to Beneficiary, as detailed in Exhibit A. Invoices shall be presented at agreed upon (detailed in Exhibit A) payments are due within 30 days.

(c) Benefits. Other than the compensation specified in Sections 3(a), Beneficiary shall not be entitled to any direct or indirect compensation for services performed hereunder

## **SECTION 4 - CONFIDENTIAL INFORMATION**

(a) “Confidential Information” means:

- (1) any information given to Beneficiary by Sponsor and clearly marked, in writing as confidential; and
- (2) any information given to Beneficiary by Sponsor orally that, at the time given, is stated to be confidential, and reduced to writing within thirty (30) days.

(b) enFocus agrees:

- (1) to keep Confidential Information confidential, return information to the Sponsor upon the terms end-date, and destroy Confidential Information after a period of 5 years from the date given to enFocus;
- (2) not to make use of Confidential Information for any purpose other than to carry out the Beneficiary’s services as specified in Exhibit A;

- (3) not to give Confidential Information, in any form, to a third party; and
  - (4) to limit access to Confidential Information to only those Beneficiary's employees who have a need to access it for the performance of the services under this Agreement.
- (c) The confidentiality, as stated in SECTION 4 (b), will not apply to information which:
- (1) is at the time of receipt public knowledge, or after receipt becomes public knowledge through no act of omission on the part of enFocus;
  - (2) was known to Beneficiary, as shown by written records, prior to disclosure by Sponsor;
  - (3) is received by Beneficiary from a third party who did not obtain the information from Sponsor; or
  - (4) is required by law.

Beneficiary hereby acknowledges and agrees that all property, including, all books, manuals, records, reports, notes, contracts, lists, blueprints, and other documents, or materials, or copies thereof, that is produced under this Agreement is Proprietary Information (as defined herein), and equipment furnished to or prepared by Beneficiary in the course of or incident to rendering of services to the Sponsor, belong to the Sponsor and shall be promptly returned to the Sponsor upon request.

- (d) Beneficiary agrees to hold all Sponsor's Proprietary Information in strict confidence and trust for the sole benefit of the Sponsor and not to, disclose, use, copy, publish, summarize, or remove from Sponsor's premises any Proprietary Information (or remove from the premises any other property of the Sponsor) during the Contractual Period except (i) to the extent necessary to carry out Beneficiary's responsibilities under this Agreement or (ii) after termination of the Contractual Period or (iii) when the information falls within the guidelines of this agreement.

## **SECTION 5 - NOTICES**

All notices or other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand or mailed, postage prepaid, by certified or registered mail, return receipt requested, and addressed to the Sponsor at:

ATTN: Mike Huber, Director of Development Services  
City of Elkhart,



229 S 2nd St,  
Elkhart, IN 46516

or to the Beneficiary at:

Andrew Wiand, President  
Institute of Entrepreneurial Communities  
enFocus, Inc.  
635 S Lafayette Boulevard, Suite 105  
South Bend, IN 46601

Notice of change of address shall be effective only when done in writing and sent in accordance with the provisions of this Section.

## **SECTION 6 - AMENDMENTS AND WAIVERS**

This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by a duly authorized representative of the Sponsor and the Beneficiary. By an instrument in writing similarly executed, either party may waive compliance by the other party with any provision of this Agreement that such other party was or is obligated to comply with or perform, provided, however, that such waiver shall not operate as a waiver of, or estoppel with respect to, any other or subsequent failure. No failure to exercise and no delay in exercising any right, remedy, or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided herein or by law or in equity.

## **SECTION 7 - INTERRUPTION OF SERVICE**

Either party shall be excused from any delay or failure in performance required hereunder if caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God, acts of war, fire, insurrection, law proclamations, edicts, ordinances or regulations, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations hereunder shall resume.



## **SECTION 8 – SEVERABILITY, ENFORCEABILITY**

If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

## **SECTION 9 – GOVERNING LAW**

The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Indiana. Any dispute arising out of or relating to this Agreement shall be subject to the sole and exclusive jurisdiction and venue of the Superior and Circuit Courts of St. Joseph County, Indiana, and the parties hereby expressly consent to the sole and exclusive jurisdiction and venue of these courts.

## **SECTION 10 – INDEPENDENT CONTRACTOR**

The Beneficiary shall operate at all times as an independent contractor of the Sponsor. This Agreement does not authorize the Beneficiary to act for the Sponsor as its agent or to make commitments on behalf of the Sponsor. The Sponsor shall not withhold payroll taxes, and Beneficiary shall not be covered by health, life, disability, or worker's compensation insurance of the Sponsor.

## **SECTION 11 – ABILITY TO ENTER INTO CONTRACT**

Each party represents and warrants to the other party that this Agreement has been duly authorized, executed and delivered and that the performance of its obligations under this Agreement does not conflict with any order, law, rule or regulation or any agreement or understanding by which such party is bound.

## **SECTION 12 – LIMITATION OF LIABILITY; INDEMNIFICATION.**

(a) As a professional organization, the Beneficiary will perform the services described in Exhibit A to the best of their ability, striving to ensure great quality work and minimize errors or omissions. As a result, the Beneficiary shall not be liable to sponsor for any loss incurred in the performance of his/her services hereunder unless caused by Beneficiary's negligence or willful misconduct. Notwithstanding any provision to the contrary, the limit of Beneficiary's liability under this Agreement will be equal to the total amount paid by Sponsor to Beneficiary under this Agreement.





(b) Sponsor agrees, at its sole expense, to indemnify and defend Beneficiary from and against any damages, claims, or suit by third parties against Beneficiary arising from the performance of Beneficiary's services hereunder unless caused by Beneficiary's negligence or willful misconduct. Subject to the limitation of liability stated in Section 12(a), Beneficiary agrees, at its sole cost, to indemnify and defend Sponsor (and its officials, employees, and agents) from and against any damages, claims or suits by third parties against Sponsor arising from the performance of Beneficiary's services hereunder unless caused by the negligence of Sponsor (or its officials, employees, or agents).

### **SECTION 13 - ENTIRE AGREEMENT**

The terms of this Agreement are intended by the parties to be in the final expression of their agreement with respect to the retention of Beneficiary by the Sponsor and may not be contradicted by evidence of any prior or contemporaneous agreement.



The parties have duly executed this Agreement as of the date first written above:

**SPONSOR:**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**enFocus, Inc d/b/a Insitute for Entrepreneurial Communities:**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



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Pro

# Memorandum

To: Common Council  
From: Jamie Arce, CPA, City Controller  
Date: October 30, 2024  
Re: City Hall HVAC

Previously, the Common Council approved a \$1,500,000 appropriation from the American Rescue Plan (ARP) Coronavirus Local Fiscal Recovery Fund to replace and upgrade the City Hall HVAC system.

As you know, the current HVAC system is outdated, inefficient, and prone to frequent failures. These failures often result in uncomfortable conditions within City Hall, with areas lacking either heating or cooling.

Given these ongoing issues and our commitment to a citywide maintenance program, the administration believes this ARP funding is an excellent use of resources. It will provide a necessary upgrade to City Hall, ensuring a comfortable environment for all employees and visitors.

We respectfully request your reaffirmation of this appropriation. A member of the administration will be available to answer any questions.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROPRIATING ONE MILLION FIVE HUNDRED THOUSAND AND 00\100 DOLLARS (\$1,500,000.00) FROM THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY FUND TO THE PROVISION OF GOVERNMENT SERVICES ACCOUNT TO UPGRADE THE HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) SYSTEM OF CITY HALL**

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WHEREAS, the United States Congress passed the American Rescue Plan Act (ARPA) and awarded to the City of Elkhart (“City”) funds which may be used for certain authorized uses specified under Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the ARPA;

WHEREAS, Section 603(c)(1) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, designates the following authorized uses:

*(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;*

*(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;*

*(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or*

*(D) to make necessary investments in water, sewer, or broadband infrastructure.*

WHEREAS, the heating, ventilation, and air conditioning (HVAC) system in City Hall are outdated, inefficient, and frequently ineffective with periodic system failures; and

WHEREAS, the passage of the American Rescue Plan Act presents a unique opportunity to replace the system which is in need of replacement; and

WHEREAS, the cost to replace the heating, ventilation, and air conditioning (HVAC) system in City Hall is estimated to be One Million Five Hundred Thousand Dollars (\$1,500,000.00); and

WHEREAS, the Administration requests that the Common Council of the City of Elkhart appropriate the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) from the ARP Coronavirus Local Fiscal Recovery Fund to the Provision of Government Services account; and

WHEREAS, the ARP Coronavirus Local Fiscal Recovery Fund contains funds sufficient and appropriate for the project; and

WHEREAS, the possibility exists that funds may remain if the project is completed under the budgeted and appropriated amount; and

WHEREAS, any ARP Coronavirus Local Fiscal Recovery Fund monies which are not dedicated to a committed and ARP-qualified project of the City must be returned to the federal government; and

WHEREAS, the LaSalle, McKinley & Benham Water & Sewer Project is an ongoing and dedicated project of the City, qualified for use of ARP Coronavirus Local Fiscal Recovery Funds, and which can utilize toward the qualified project costs, any funds which remain upon completion of the project for which this appropriation is made.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. The amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00) be, and hereby is, appropriated from the ARP Coronavirus Local Fiscal Recovery Fund and assigned to the following account line:

Account No. 2474-5-600-4390061 Provision of Government Services \$1,500,000.00

Section 2. If, upon completion of the project described in this appropriation ordinance, any portion of the One Million Five Hundred Thousand Dollars (\$1,500,000.00) remains unused, the remaining funds shall be transferred by the City Controller to the following account line for use in the LaSalle, McKinley & Benham Water & Sewer Project:

Account No. 176-5-000-442.0000 Utilities & Infrastructure

Section 3. The Common Council has fixed the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 6:00 p.m., in the Council Chambers, as the date, time and place when the Common Council will consider and determine the appropriation, and all taxpayers and interested persons will have the opportunity to appear and express their views.

Section 4. This Ordinance shall be in effect from and after its passage by the Common Council and approval by the Mayor according to law.

*[Balance of page is intentionally blank.]*

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk



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## MEMORANDUM

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**DATE:** 10/31/2024  
**TO:** Common Council  
**FROM:** Corporation Counsel John Espar  
**RE:** Proposed Resolution No. 24-R-51

RESOLUTION CONFIRMING THE DESIGNATION OF AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF GRANTING TAX PHASE-IN BENEFITS TO CONSOLIDATED METALS, INC. \ WESTWOOD MANOR, INC.

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This Proposed Resolution relates to the Application for Property Tax Phase-In submitted by Consolidated Metals, Inc. \ Westwood Manor, Inc. for which this Council previously declared an Economic Revitalization Area under Resolution No. R-50-24 at the public meeting held on October 21, 2024.

This Proposed Resolution 24-R-51 confirms the declaration of an Economic Revitalization Area within which Consolidated Metals, Inc. \ Westwood Manor, Inc. proposes to make certain real property and personal property investments to increase economic development in the area and in exchange for which Consolidated Metals, Inc. \ Westwood Manor, Inc. seeks to receive tax phase-in benefits.



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, CONFIRMING RESOLUTION NO. R-50-24, WHICH DECLARED A CERTAIN AREA IN THE CITY OF ELKHART TO BE AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE-IN BENEFITS TO CONSOLIDATED METALS, INC. \ WESTWOOD MANOR, INC.**

WHEREAS, on October 21, 2024, the Common Council of the City of Elkhart (the "Common Council"), approved and adopted Resolution No. R-50-24, a resolution entitled "A Resolution of the Common Council of the City of Elkhart, Indiana, Declaring a Certain Area to be an Economic Revitalization Area For the Purpose of Granting Tax Phase-in Benefits to Consolidated Metals, Inc. \ Westwood Manor, Inc." (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution found and determined that a certain area in the City of Elkhart (the "Area") was an economic revitalization area within the meaning of Indiana Code 6-1.1-12.1, (the "Act") for the purpose of allowing deductions from the assessed value of the real estate improvements (the "Project") and from the assessed value of the manufacturing equipment (the "New Equipment") in the Area; and

WHEREAS, pursuant to Section 2.5(b) of the Act, the Common Council filed the Declaratory Resolution with the Elkhart County Assessor; and

WHEREAS, pursuant to Section 2.5(c)(1) of the Act, the Common Council published notice of the adoption and substance of the Declaratory Resolution in accordance with Indiana Code 5-3-1 (the "Notice"); and

WHEREAS, pursuant to Section 2.5(c)(2) of the Act, the Common Council filed a copy of the Notice and a copy of the Statement of Benefits form filed by Consolidated Metals, Inc. \ Westwood Manor, Inc., with the officers of the taxing units who are authorized to fix budgets, tax rates and tax levies in the Area; and

WHEREAS, at a public hearing held by the Common Council on this date, November 4, 2024, at the City Hall, 229 S. Second Street, Elkhart, Indiana, the Common Council heard all persons interested in the proceedings and received any written remonstrances and objections, and considered those remonstrances and objections, if any, and such other evidence presented; and

WHEREAS, the Common Council now desires to take final action and confirm the necessary findings in accordance with Section 2.5, Section 3 and Section 4.5 of the Act;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Elkhart, Indiana, as follows:

1. After considering the evidence presented at the public hearing on this date, November 4, 2024, the Common Council hereby finds that the Declaratory Resolution should be, and hereby is, confirmed in its entirety and without modification.

2. This Resolution constitutes final action, pursuant to Section 2.5(c) of the Act, by the Common Council determining the public utility and benefit of the Project and the New Equipment in the Area, confirming the Declaratory Resolution, and declaring the Area an economic revitalization area pursuant to the Act.

RESOLVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
\_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor for the City of Elkhart

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

STATE OF INDIANA        )  
                                  ) §  
COUNTY OF ELKHART    )

I, Debra D. Barrett, Clerk of the City of Elkhart, Indiana, do hereby certify the above is a full, true and complete copy of Resolution No. R-\_\_\_\_, adopted by the Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by a vote of \_\_\_\_\_ AYES and \_\_\_\_\_ NAYS, and was approved and signed by the Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Elkhart, Indiana, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk



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## MEMORANDUM

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**DATE:** 10/31/2024  
**TO:** Common Council  
**FROM:** Corporation Counsel John Espar  
**RE:** Proposed Resolution No. 24-R-52  
A Resolution Approving the Memoranda of Agreements with Consolidated Metals, Inc. \ Westwood Manor, Inc. for Tax Phase-In Benefits

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This resolution relates to the Application for Property Tax Phase-In submitted by Consolidated Metals, Inc. \ Westwood Manor, Inc. which was first considered by this Council at its public meeting held on November 4, 2024.

Proposed Resolution 24-R-52 approves the corresponding agreements by which Consolidated Metals, Inc. \ Westwood Manor, Inc. will enjoy tax phase-in benefits for the real property and personal property investments made in the economic revitalization area. Each Memorandum of Agreement likewise establishes the legal responsibilities and legal obligations imposed upon Consolidated Metals, Inc. \ Westwood Manor, Inc. in exchange for the tax phase-in benefits granted by the City.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART,  
INDIANA, TO APPROVE TWO MEMORANDA OF AGREEMENTS BETWEEN THE  
CITY OF ELKHART AND CONSOLIDATED METALS, INC. \ WESTWOOD MANOR,  
INC.**

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WHEREAS, Consolidated Metals, Inc. \ Westwood Manor, Inc., (hereinafter, the “Applicant”) has filed an application with the City of Elkhart (the “City”) requesting that the property commonly known as 3504 Cooper Drive, Elkhart IN 46514, be designated as an economic revitalization area by the Common Council of the City of Elkhart (the “Common Council”), in accordance with Indiana Code 6.1-1.1-12.1, for the purpose of allowing deductions from the assessed value of the proposed real estate improvements (the “Project”) and the proposed installation of manufacturing equipment (the “New Equipment”) in the proposed economic revitalization area; and

WHEREAS, the City’s Tax Abatement Policy requires that the Applicant\Property Owner (jointly and severally, if not the same entity), enter into a written agreement agreeing: (i) to comply with the project description, (ii) to create and retain a certain number of jobs along with the associated wages rates and salaries (as shown in its Application), and (iii) to comply with its Statement of Benefits forms and any other documents submitted in support of its Application; and

WHEREAS, a Memorandum of Agreement (Real Property) and a Memorandum of Agreement (Personal Property) have been prepared and presented to the Common Council for the Project and the New Equipment, respectively, which Agreements govern the relationship between the City and the Applicant\Property Owner during the term of the tax abatement; and

WHEREAS, the Common Council believes that it is in the best interest of the City to enter

into these agreements.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, that the attached Memorandum of Agreement (Real Property) and the attached Memorandum of Agreement (Personal Property) to be entered into between the City and the Applicant\Property Owner are hereby approved by the Common Council.

RESOLVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
\_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor for the City of Elkhart

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, Elkhart City Clerk

## MEMORANDUM OF AGREEMENT

### Real Estate

This Memorandum of Agreement (“Agreement”) serves as a confirmation of the good-faith commitment by Consolidated Metals, Inc. \ Westwood Manor, Inc., (hereinafter, the “Applicant”) to use its reasonable best efforts to implement the Project as described, to create and retain the jobs and pay the wages specified in the Applicant’s Property Tax Phase-In Application for designation of certain real property as an Economic Revitalization Area, (“Application”), and the Statement of Benefits Real Property Improvement (Form SB-1 Real Property), herein after “Statement of Benefits”), and to fulfill its obligations set forth within this Agreement (“Applicant's Commitment”).

#### 1. Commitments of City and Applicant:

(a) Subject to the requirements under Indiana Code 6-1.1-12.1-3, the City of Elkhart, Indiana ("City"), acting by and through its Common Council, agrees to approve a deduction from the assessed value of the proposed development of the real estate for five (5) (consecutive) on the Applicant’s real property commonly known as 3504 Cooper Drive, Elkhart IN 46514 (hereinafter, the “Subject Property”), which is more specifically described in Exhibit A of this Agreement. The amount of the deduction from the assessed value of the Subject Property shall be according to the deduction schedule shown in Exhibit B of this Agreement (hereinafter, the “Tax Phase-In”). The Tax Phase-In shall start with the first year in which the assessed value of the Subject Property increases because of the proposed development. The Applicant acknowledges and agrees that the designation of the Subject Property as an economic revitalization area expires on December 31, 2026, and the Project (as hereafter defined) must be completed by then in order for the Applicant to be or remain eligible to receive the Tax Phase-In benefits.

(b) Subject to Section 4 herein, the Applicant agrees that by November 30, 2025, it will make a total capital expenditure of Six Hundred Twenty-Five Thousand (\$625,000.00) to improve the Subject Property with existing building improvements and related improvements at the Subject Property (the “Project”), which will create at least 30 new full-time permanent positions with an average annual salary of no less than \$50,981.00, while retaining jobs with an average annual salary of no less than , based on two thousand forty hours (2,040) annually. The Applicant further agrees to contribute fifteen percent (15%) of the amount of real property taxes abated under the Tax Phase-In, which payment will be collected by the Elkhart County Treasurer as set forth in the tax invoice statement and remitted to the City. Payment of the contribution shall (1) coincide with the due date of property tax payments in Elkhart County as set forth in Indiana Code 6-1.1-22-9(a), and (2) shall be due and payable the first time in the year following the first year in which the assess value of the subject property increases by reason of the Project and shall continue and each year thereafter during the term of the Tax Phase-In deduction period set forth in Exhibit B, unless modified by agreement of the City of Elkhart and the Applicant.

2. Applicant’s Compliance with City and State Laws: During the term of the Tax Phase-In, the Applicant shall use its good-faith efforts to comply with all applicable provisions of Indiana Code 6-1.1-12.1. Also, during the term of the Tax Phase-In, the City may annually request information from the Applicant concerning the nature of the Project, the costs of the Project and the amount of and average wages for the jobs, and the Applicant shall provide the City with adequate written evidence thereof within fifteen (15) days of such request ("Annual Survey"). The City shall utilize this information and the information provided by the Applicant in the CF-1 Compliance with the Statement of Benefits form to verify that the Applicant has complied with the obligations contained in Applicant's Commitment at all times after the date thereof until the expiration of the Tax Phase-In. The Applicant further agrees to provide the City with such additional information reasonably requested by the City related to the information provided in the Annual Survey and the CF-1 form within fifteen (15) days following any such additional request.

3. Substantial Compliance and Rights of Termination: The City reserves the right to terminate the Economic Revitalization Area designation and the associated Tax Phase-In if it determines that the Applicant has not substantially complied with Applicant's Commitment, and the Applicant's failure to substantially comply with Applicant's Commitment was not due to factors beyond its control. As used in this Agreement, substantial compliance shall mean: by November 30, 2025, (1) making capital expenditures of not less than Ninety-Five Percent (95%) of the capital expenditures referenced in Section 1 above for the Project, (2) creating not less than Ninety-five Percent (95%) of the jobs referenced in Section 1 above, and (3) those new jobs will have an average annual salary of at least \$50,981.00, excluding benefits, while retaining the jobs referenced in Section 1 of this Agreement and at the specified average annual rate of pay.

4. Factors Beyond Applicant's Control: As used in this Agreement, factors beyond the control of the Applicant shall only include factors that: (i) are not reasonably foreseeable at the time of designation, application, and submission of the Statement of Benefits; (ii) are not caused by any grossly negligent act or omission of the Applicant; and (iii) do not materially and adversely affect the ability of the Applicant to substantially comply with this Agreement.

5. Repayment of Tax Phase-In Savings:

(a) During the term of this Agreement, if the Applicant: (i) is delinquent or in default for a period of sixty (60) days with respect to any tax payment due in Elkhart County, Indiana; or (ii) ceases operations at the facility for which the Tax Phase-In was granted for a period longer than thirty (30) consecutive days (other than a temporary cessation of operations in the Applicant's normal course of business or as a result of a force majeure event); or (iii) announces the cessation of operations at such facility for a period longer than thirty (30) consecutive days (other than a temporary cessation of operations in the Applicant's normal course of business or as a result of a force majeure event); or otherwise fails to comply with the commitments of this Memorandum of Agreement, then the City may terminate the Economic Revitalization Area designation and associated Tax Phase-In benefits, and upon such termination, require the Applicant to repay all of the Tax Phase-In benefits received through the date of such termination. Such repayment of received benefits shall be calculated as provided in Section 5(b). The amount of benefit repayment shall be measured against the level of noncompliance, relative to the entire abatement period.

(b) In the event the City terminates this Agreement in accordance with this Section 5, the Applicant will be required to repay only that percentage of the Tax Phase-In benefits received through the date of termination that is equal to the percentage of the Applicant's noncompliance with Section 1 above, including unfulfilled years, subsequent to the termination. Applicant shall be entitled to a credit against the recalculated tax due for the fifteen percent (15%) tax savings which was allocated to, and received by, the City. For purposes of this Agreement, the percentage of the Applicant's noncompliance with Section 1 above shall be calculated as follows: the amount of actual investment in each category (average annual salary, number of jobs, and personal property investment) shall be divided by 100% compliance, to determine Applicant's compliance rate. The compliance rate then shall be subtracted from 100% to determine the percentage of noncompliance. The percentage of noncompliance shall equal the percentage of benefit repayment.

If the Applicant fails to achieve substantial compliance in more than one category, the category with the lowest compliance rate will be used to determine the repayment percentage.

6. Assessment Appeals. Neither the Applicant, nor its successors and assigns, shall file any property tax assessment appeal, review, or other challenge of the property tax assessment made for the



Project involved during the term of the Tax Phase-In unless one of the following conditions occurs during the deduction period:

(a) the original assessment for the Project as determined by the Elkhart County Assessor (“Assessor”) is in excess of the total capital expenditure for the Project as set forth in Section 1 of this Agreement; or

(b) a trending assessment or a reassessment by the Assessor increases the assessment for the Project by more than fifteen percent (15%) from one (1) year to the next year, or by more than an average of ten percent (10%) per year over two (2) or more years.

7. Notice/Hearing of Termination: In the event that the City determines in accordance with Section 5 above that (i) the Economic Revitalization Area designation and associated Tax Phase-In benefits should be terminated or (ii) that all or a portion of the Tax Savings should be repaid, it will give the Applicant notice of such determination, including a written statement calculating the amount due from the Applicant, and will provide the Applicant with an opportunity to meet with the City’s designated representatives to show cause why the Tax Phase-In benefits should not be terminated and/or repaid. Such notice shall state the names of the person with whom the Applicant may meet and will provide that the Applicant shall have thirty (30) days from the date of such notice to arrange such meeting and to provide its evidence concerning why the Tax Phase-In benefits termination and/or repayment should not occur. If, after giving such notice and receiving such evidence, if any, the City determines that the Tax Phase-In termination and/or repayment action is proper, the Applicant shall be provided with written notice and a hearing before the Common Council. Before any final action shall be taken terminating the Tax Phase-In and/or requiring repayment of Tax Phase-In benefits, any such action shall be subject to judicial review under Indiana Code 6-1.1-12.1-5.9(e).

8. Repayment: In the event the City requires repayment of the Tax Phase-In benefits as provided following the procedures set forth in Section 7 hereunder, it shall provide Applicant with a written statement calculating the amount due ("Statement"), and the Applicant shall repay its actual amount of Tax Phase-In benefits to the City within thirty (30) days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys’ fees incurred in the enforcement and collection of the Tax Phase-In benefits required to be repaid hereunder.

9. Modification/Entire Agreement: This Agreement and any schedules attached hereto contain the entire understanding between the City and the Applicant with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements, and conditions, expressed or implied, oral or written, except as herein contained. This Agreement may not be modified or amended other than by an agreement in writing signed by the City and the Applicant. The Applicant understands that all filings required to be made or actions required to be taken to initiate or maintain the Tax Phase-In are solely the responsibility of the Applicant.

10. Waivers: Neither the failure, nor any delay on the part of the City to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege with respect to any occurrence or be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

11. Governing Laws of Indiana: This Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws and decisions of the courts of the State of Indiana.

12. Applicant's Consent to Jurisdiction: The Applicant hereby irrevocably consents to the jurisdiction of the Courts of the State of Indiana and of the Elkhart County Circuit or Superior Court in connection with any action or proceeding arising out of or relating to this Agreement or any documents or instrument delivered with respect to any of the obligations hereunder, and any action related to this Agreement shall be brought in such County and in such Court.

13. Notices: All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been received when delivered by hand, by facsimile (with confirmation by registered or certified mail), on the next business day following the mailing by a nationally recognized overnight commercial courier, or on the third business day following the mailing, by registered or certified mail, postage prepaid, return receipt requested, thereof, addressed as set forth below:

If to Applicant:

Consolidated Metals, Inc.  
Sherry Ryan  
Chief Financial Officer  
625 E Twiggs Ste 110 PBM 97617  
Tampa, FL 33607

Westwood Manor, Inc.  
Charles Cooper  
President  
22114 Alpine Ridge Court  
South Bend, IN 46628

If to the City of Elkhart:

Office of the Mayor  
229 S. Second Street  
Elkhart, Indiana 46516

Copy to:

Elkhart Common Council  
c/o Administrative Assistant to the Council  
229 S. Second Street  
Elkhart, Indiana 46516

14. Assignment and Transfer Prohibited: This Agreement shall be binding upon and inure to the benefit of the City and the Applicant and their successors and assigns, except that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

15. Valid and Binding Agreement: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. By executing this Agreement, each party confirms that each person so executing it has been duly authorized to execute this Agreement on behalf of such party and that this Agreement constitutes a valid and binding obligation of the party.

16. Severability: The provisions of this Agreement and of each section or other subdivision herein are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part unless this Agreement is rendered totally unenforceable thereby.

17. No Personal Liability: No official, director, officer, employee or agent of the City shall be charged personally by the Applicant, its employees or agents with any liabilities or expenses of defense or be held personally liable to the Applicant under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

APPLICANT:

Consolidated Metals, Inc.  
625 E Twiggs Ste 110 PBM 97617  
Tampa, FL 33607

Westwood Manor, Inc.  
22114 Alpine Ridge Court  
South Bend, IN 46628

By:

\_\_\_\_\_  
Sherry Ryan  
Chief Financial Officer

\_\_\_\_\_  
Charles Cooper  
President

CITY OF ELKHART:

Attest:

By:

\_\_\_\_\_  
Arvis Dawson  
President of the Elkhart Common Council

\_\_\_\_\_  
Debra Barrett  
Elkhart City Clerk

Attest:

By:

\_\_\_\_\_  
Rod Roberson  
Mayor of the City of Elkhart

\_\_\_\_\_  
Debra Barrett  
Elkhart City Clerk

Approved as to form:

\_\_\_\_\_  
John M. Espar  
Corporation Counsel for the City of Elkhart

**Exhibit A**  
**Description of Real Property**

(Economic Revitalization Area and Project Area)

**Legal Description:**

**TRACT 1:**

THE EAST 200 FEET OF THE SOUTH 105 FEET OF THE NORTH 155 FEET OF LOT NUMBERED A-42, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE EAST 75 FEET OF THE SOUTH 289 FEET OF LOT NUMBERED A-42, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

**TRACT 2:**

THE EAST 200 FEET OF THE SOUTH 245 FEET OF LOT NUMBERED A-40, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

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**Address:**

3504 Cooper Drive, Elkhart IN 46514

**Parcel Identification Number(s):**

20-02-26-126-012.000-027

**Exhibit B**

**Tax Deduction Schedule**

<b>YEAR OF REDEVELOPMENT AND REVITALIZATION OF THE REAL ESTATE</b>	<b>2025 Payable 2026</b>	<b>2026 Payable 2027</b>	<b>2027 Payable 2028</b>	<b>2028 Payable 2029</b>	<b>2029 Payable 2030</b>	<b>2030 Payable 2031</b>	<b>2031 Payable 2032</b>	<b>2032 Payable 2033</b>
2025	100%	80%	60%	40%	20%	-	-	-
2026	-	100%	80%	60%	40%	20%	-	-
2027	-	-	100%	80%	60%	40%	20%	-

## MEMORANDUM OF AGREEMENT

### Personal Property

This Memorandum of Agreement (“Agreement”) serves as a confirmation of the good-faith commitment by Consolidated Metals, Inc. \ Westwood Manor, Inc., (hereinafter, the “Applicant”) to use its reasonable best efforts to implement the Project as described, to create and retain the jobs and pay the wages specified in the Applicant’s Property Tax Phase-In Application for designation of certain real property as an Economic Revitalization Area, (“Application”), and the Statement of Benefits Personal Property Improvement (Form SB-1 Personal Property, as the same may have been amended, herein after “Statement of Benefits”), and to fulfill its obligations set forth within this Agreement (“Applicant's Commitment”).

#### 1. Commitments of City and Applicant:

(a) Subject to the requirements under Indiana Code 6-1.1-12.1-3, the City of Elkhart, Indiana ("City"), acting by and through its Common Council, agrees to approve a deduction from the assessed value of the proposed installation of manufacturing equipment for five (5) (consecutive) on the Applicant’s real property to be located at 3504 Cooper Drive, Elkhart IN 46514 (hereinafter, the “Subject Property”), which is more specifically described in Exhibit A of this Agreement. The amount of the deduction from the assessed value of the Subject Property shall be according to the deduction schedule shown in Exhibit B of this Agreement (hereinafter, the “Tax Phase-In”). The Tax Phase-In shall start with the first year in which the assessed value of the Subject Property increases because of the proposed manufacturing equipment. The Applicant acknowledges and agrees that the designation of the Subject Property as an economic revitalization area expires on December 31, 2027, and the Project (as hereafter defined) must be completed by then for the Applicant to be or remain eligible to receive the Tax Phase-In benefits.

(b) Subject to Section 4 herein, the Applicant agrees that by December 31, 2026, it will make a total capital expenditure of Nine Million One Hundred Twenty-Nine Thousand Five Hundred (\$9,129,500.00) associated with the investment of manufacturing equipment for mechanical steel mill and structural steel mill at the Subject Property (the “New Equipment”), which will create at least 30 new full-time permanent positions with an average annual salary of no less than \$50,981.00, while retaining NOT APPLICABLE jobs with an average annual salary of no less than , based on two thousand forty hours (2,040) annually. The Applicant further agrees to contribute fifteen percent (15%) of the amount of personal property taxes abated under the Tax Phase-In, which payment will be collected by the Elkhart County Treasurer as set forth in the tax invoice statement and remitted to the City. Payment of the contribution shall (1) coincide with the due date of property tax payments in Elkhart County as set forth in Indiana Code 6-1.1-22-9(a), and (2) shall be due and payable the first time in the year following the first year in which the assess value of the subject property increases by reason of the Project and shall continue and each year thereafter during the term of the Tax Phase-In deduction period set forth in Exhibit B, unless modified by agreement of the City of Elkhart and the Applicant.

2. Applicant’s Compliance with City and State Laws: During the term of the Tax Phase-In, the Applicant shall use its good-faith efforts to comply with all applicable provisions of Indiana Code 6-1.1-12.1. Also, during the term of the Tax Phase-In, the City may annually request information from the Applicant concerning the nature of the Project, the costs of the Project and the amount of and average wages for the jobs, and the Applicant shall provide the City with adequate written evidence thereof within fifteen (15) days of such request ("Annual Survey"). The City shall utilize this information and the information provided by the Applicant in the CF-1 Compliance with the Statement of Benefits form to verify that the Applicant has complied with the commitments contained in Applicant's Commitment at all times after the date thereof until the expiration of the Tax Phase-In. The Applicant further agrees to provide the City with

such additional information reasonably requested by the City related to the information provided in the Annual Survey and the CF-1 form within fifteen (15) days following any such additional request.

3. Substantial Compliance and Rights of Termination: The City reserves the right to terminate the Economic Revitalization Area designation and the associated Tax Phase-In if it determines that the Applicant has not substantially complied with all of the Applicant's Commitment, and the Applicant's failure to substantially comply with Applicant's Commitment was not due to factors beyond its control. As used in this Agreement, substantial compliance shall mean: by December 31, 2026, (1) making capital expenditures of not less than Ninety-Five Percent (95%) of the capital expenditures referenced in Section 1 above for the Project, (2) creating not less than Ninety-five Percent (95%) of the jobs referenced in Section 1 above, and (3) those new jobs will have an average annual salary of at least \$50,981.00, excluding benefits, while retaining the jobs referenced in Section 1 of this Agreement and at the specified average annual rate of pay.

4. Factors Beyond Applicant's Control: As used in this Agreement, factors beyond the control of the Applicant shall only include factors that: (i) are not reasonably foreseeable at the time of designation, application, and submission of the Statement of Benefits; (ii) are not caused by any grossly negligent act or omission of the Applicant; and (iii) do not materially and adversely affect the ability of the Applicant to substantially comply with this Agreement.

5. Repayment of Tax Phase-In Savings:

(a) During the term of this Agreement, if the Applicant: (i) is delinquent or in default for a period of sixty (60) days with respect to any tax payment due in Elkhart County, Indiana; or (ii) ceases operations at the facility for which the Tax Phase-In was granted for a period longer than thirty (30) consecutive days (other than a temporary cessation of operations in the Applicant's normal course of business or as a result of a force majeure event); or (iii) announces the cessation of operations at such facility for a period longer than thirty (30) consecutive days (other than a temporary cessation of operations in the Applicant's normal course of business or as a result of a force majeure event); or otherwise fails to comply with the commitments of this Memorandum of Agreement, then the City may terminate the Economic Revitalization Area designation and associated Tax Phase-In benefits, and upon such termination, require the Applicant to repay all of the Tax Phase-In benefits received through the date of such termination. Such repayment of received benefits shall be calculated as provided in Section 5(b). The amount of benefit repayment shall be measured against the level of noncompliance, relative to the entire abatement period.

(b) In the event the City terminates this Agreement in accordance with this Section 5, the Applicant will be required to repay only that percentage of the Tax Phase-In benefits received through the date of termination that is equal to the percentage of the Applicant's noncompliance with Section 1 above, including unfulfilled years, subsequent to the termination. Applicant shall be entitled to a credit against the recalculated tax due for the fifteen percent (15%) tax savings which was allocated to, and received by, the City. For purposes of this Agreement, the percentage of the Applicant's noncompliance with Section 1 above shall be calculated as follows: the amount of actual investment in each category (average annual salary, number of jobs, and personal property investment) shall be divided by 100% compliance, to determine Applicant's compliance rate. The compliance rate then shall be subtracted from 100% to determine the percentage of noncompliance. The percentage of noncompliance shall equal the percentage of benefit repayment.

If the Applicant fails to achieve substantial compliance in more than one category, the category with the lowest compliance rate will be used to determine the repayment percentage.

6. Assessment Appeals. Neither the Applicant, nor its successors and assigns, shall file any property tax assessment appeal, review, or other challenge of the property tax assessment made for the Project involved during the term of the Tax Phase-In unless one of the following conditions occurs during the deduction period:

(a) the original assessment for the Project as determined by the Elkhart County Assessor (“Assessor”) is in excess of the total capital expenditure for the Project as set forth in Section 1 of this Agreement; or

(b) a trending assessment or a reassessment by the Assessor increases the assessment for the Project by more than fifteen percent (15%) from one (1) year to the next year, or by more than an average of ten percent (10%) per year over two (2) or more years.

7. Notice/Hearing of Termination: In the event that the City determines in accordance with Section 5 above that (i) the Economic Revitalization Area designation and associated Tax Phase-In benefits should be terminated or (ii) that all or a portion of the Tax Savings should be repaid, it will give the Applicant notice of such determination, including a written statement calculating the amount due from the Applicant, and will provide the Applicant with an opportunity to meet with the City’s designated representatives to show cause why the Tax Phase-In benefits should not be terminated and/or repaid. Such notice shall state the names of the person with whom the Applicant may meet and will provide that the Applicant shall have thirty (30) days from the date of such notice to arrange such meeting and to provide its evidence concerning why the Tax Phase-In benefits termination and/or repayment should not occur. If, after giving such notice and receiving such evidence, if any, the City determines that the Tax Phase-In termination and/or repayment action is proper, the Applicant shall be provided with written notice and a hearing before the Common Council. Before any final action shall be taken terminating the Tax Phase-In and/or requiring repayment of Tax Phase-In benefits, any such action shall be subject to judicial review under Indiana Code 6-1.1-12.1-5.9(e).

8. Repayment: In the event the City requires repayment of the Tax Phase-In benefits as provided following the procedures set forth in Section 7 hereunder, it shall provide Applicant with a written statement calculating the amount due ("Statement"), and the Applicant shall repay its actual amount of Tax Phase-In benefits to the City within thirty (30) days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys’ fees incurred in the enforcement and collection of the Tax Phase-In benefits required to be repaid hereunder.

9. Modification/Entire Agreement: This Agreement and any schedules attached hereto contain the entire understanding between the City and the Applicant with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements, and conditions, expressed or implied, oral or written, except as herein contained. This Agreement may not be modified or amended other than by an agreement in writing signed by the City and the Applicant. The Applicant understands that any and all filings required to be made or actions required to be taken to initiate or maintain the Tax Phase-In are solely the responsibility of the Applicant.

10. Waivers: Neither the failure, nor any delay on the part of the City to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege with respect to any occurrence or be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.



11. Governing Laws of Indiana: This Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws and decisions of the courts of the State of Indiana.

12. Applicant's Consent to Jurisdiction: The Applicant hereby irrevocably consents to the jurisdiction of the Courts of the State of Indiana and of the Elkhart County Circuit or Superior Court in connection with any action or proceeding arising out of or relating to this Agreement or any documents or instrument delivered with respect to any of the obligations hereunder, and any action related to this Agreement shall be brought in such County and in such Court.

13. Notices: All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been received when delivered by hand, by facsimile (with confirmation by registered or certified mail), on the next business day following the mailing by a nationally recognized overnight commercial courier, or on the third business day following the mailing, by registered or certified mail, postage prepaid, return receipt requested, thereof, addressed as set forth below:

If to Applicant:

Consolidated Metals, Inc.  
Sherry Ryan  
Chief Financial Officer  
625 E Twiggs Ste 110 PBM 97617  
Tampa, FL 33607

Westwood Manor, Inc.  
Charles Cooper  
President  
22114 Alpine Ridge Court  
South Bend, IN 46628

If to the City of Elkhart:

Office of the Mayor  
229 S. Second Street  
Elkhart, Indiana 46516

Copy to:

Elkhart Common Council  
c/o Administrative Assistant to the Council  
229 S. Second Street  
Elkhart, Indiana 46516

14. Assignment and Transfer Prohibited: This Agreement shall be binding upon and inure to the benefit of the City and the Applicant and their successors and assigns, except that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

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16. Severability: The provisions of this Agreement and of each section or other subdivision herein are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part unless this Agreement is rendered totally unenforceable thereby.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

APPLICANT:

Consolidated Metals, Inc.  
625 E Twiggs Ste 110 PBM 97617  
Tampa, FL 33607

Westwood Manor, Inc.  
22114 Alpine Ridge Court  
South Bend, IN 46628

By:

\_\_\_\_\_  
Sherry Ryan  
Chief Financial Officer

\_\_\_\_\_  
Charles Cooper  
President

CITY OF ELKHART:

By:

Attest:

\_\_\_\_\_  
Arvis Dawson  
President of the Elkhart Common Council

\_\_\_\_\_  
Debra Barrett  
Elkhart City Clerk

By:

Attest:

\_\_\_\_\_  
Rod Roberson  
Mayor of the City of Elkhart

\_\_\_\_\_  
Debra Barrett  
Elkhart City Clerk

Approved as to form:

\_\_\_\_\_  
John M. Espar  
Corporation Counsel for the City of Elkhart

**Exhibit A**  
**Description of Real Property**

(Economic Revitalization Area and Project Area)

**Legal Description:**

**TRACT 1:**

THE EAST 200 FEET OF THE SOUTH 105 FEET OF THE NORTH 155 FEET OF LOT NUMBERED A-42, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ALSO, THE EAST 75 FEET OF THE SOUTH 289 FEET OF LOT NUMBERED A-42, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

**TRACT 2:**

THE EAST 200 FEET OF THE SOUTH 245 FEET OF LOT NUMBERED A-40, AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF NORTHLAND PARK SECOND SECTION, A SUBDIVISION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 13, PAGE 62 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

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**Address:**

3504 Cooper Drive, Elkhart IN 46514

**Parcel Identification Number(s):**

20-02-26-126-012.000-027

**Exhibit B**

**Tax Deduction Schedule**

<b>YEAR EQUIPMENT INSTALLED IN THE IN THE ERA</b>	<b>2025 Payable 2026</b>	<b>2026 Payable 2027</b>	<b>2027 Payable 2028</b>	<b>2028 Payable 2029</b>	<b>2029 Payable 2030</b>	<b>2030 Payable 2031</b>	<b>2031 Payable 2032</b>	<b>2032 Payable 2033</b>
2025	100%	80%	60%	40%	20%	-	-	-
2026	-	100%	80%	60%	40%	20%	-	-
2027	-	-	100%	80%	60%	40%	20%	-

Rod Roberson  
Mayor

Michael Huber  
Director of Development Services



Development Services  
Community Development  
Economic Development  
Planning Services  
Redevelopment  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

DATE: November 4, 2024

TO: Elkhart Common Council Members

FROM: Mike Huber, Director of Development Services

RE: Tax Phase-in Application for Triangle Rubber

**Background**

Triangle Rubber Co. is a local manufacturer with three Elkhart County locations. They service the automotive and appliance industries, supplying major companies across North American. Triangle Rubber’s Elkhart City plant is located at 5333 Beck Drive.

**Private Investment**

Triangle Rubber plans to invest \$1,000,000 in real estate improvements and \$2,000,000 in personal property equipment, for a total investment of \$3,000,000. This is projected to create ten new jobs, with an average annual salary of \$58,240. The projected tax revenue from the purposed project is \$395,808. The purposed tax savings is \$114,192.

The project is being phased in over three-years for real property and three-years for personal property. The table below highlights the planned real estate investments and personal property investments. The subsequent table highlights the projected phasing of new jobs.

Calendar Year	2024	2025	2026	Total
Land Acquisition				
New building construction	\$260,000	\$400,000		\$660,000
Existing building improvements	\$90,000	\$250,000		\$340,000
Manufacturing equipment	\$800,000	\$1,200,000		\$2,000,000
Research and Development equipment				
Logistics Distribution equipment				

Information Technology equipment				
On-site rail infrastructure				
On-site fiber infrastructure				
Grand total	\$1,150,000	\$1,850,000		\$3,000,000

Calendar Year	2025	2026	2027	Total
Management				
Professional/Technical	1			1
Sales				
Office/Administrative Support	1			1
Production Supervision				
Production	7			7
Maintenance	1			1
Other				
Total	10	0	0	10

### Recommendation

Our staff, with support from the EDC, is recommending a three-year real property phase-in and three-year personal property phase-in. Per the EDC's Project Impact Estimate sheet, the projected tax revenue generated from the proposed project is \$395,808. The projected tax savings is \$114,192.

**RESOLUTION NO. R\_\_\_\_\_**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ELKHART,  
INDIANA, DECLARING A CERTAIN AREA TO BE AN ECONOMIC  
REVITALIZATION AREA FOR THE PURPOSE OF GRANTING TAX PHASE-IN  
BENEFITS TO PECF ENTERPRISES INC. DBA TRIANGLE RUBBER CO, LLC \ N7  
GUILD LLC**

WHEREAS, Indiana Code 6-1.1-12.1 (the “Act”) authorizes the Common Council of the City of Elkhart, Indiana (“Common Council”) to designate an area within the territorial boundaries of the City of Elkhart, Indiana as an economic revitalization area, as that term is defined in Section 1 of the Act, for the purpose of allowing certain qualified businesses the right to receive deductions from the assessed value of improvements made to real property and personal property located in the economic revitalization area; and

WHEREAS, PECF Enterprises Inc. dba Triangle Rubber Co, LLC \ N7 Guild LLC, (hereinafter the “Applicant/Property Owner”) filed an application with the City of Elkhart, requesting that the real estate described in Exhibit A attached to this Resolution (the “Area”) be designated as an economic revitalization area by the Common Council for the purpose of allowing a deduction from the assessed value of the real property improvements, consisting of new building construction for building addition (the “Project”) and from the assessed value of the manufacturing equipment for purchase of new injection molding/robotic equipment and overhead crane (the “New Equipment”); and

WHEREAS, the Applicant/Property Owner filed with the City a Statement of Benefits Form (SB-1/Real Property) for the Project and a Statement of Benefits Form (SB-1/Personal Property) for the New Equipment (collectively the “Statement of Benefits”); and

WHEREAS, prior to the commencement of the Project in the Area, the Area had become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values and prevented normal development and use of the property; and

WHEREAS, the Common Council has caused to be prepared maps and plats showing the boundaries of the Area; and

WHEREAS, the Common Council has studied the Area and considered the Applicant/Property Owner’s request to designate the Area as an economic revitalization area and the Applicant/Property Owner’s Statement of Benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, as follows:

1. After considering the evidence presented at the public meeting conducted this date, the Common Council hereby finds and determines that:

A. the estimate of the value of the Project in the Area is reasonable for projects of this nature, and the estimate of the cost of the New Equipment is reasonable for equipment of this type in this Area;

B. the estimate of the number of individuals who will be employed or whose employment will be retained in the Area can reasonably be expected to result from the Project and installation of the New Equipment;

C. the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained in the Area can reasonably be expected to result from the Project and installation of the New Equipment;

D. the other benefits about which information was requested are benefits that can reasonably be expected to result from the Project and installation of the New Equipment; and

E. the totality of benefits is sufficient to justify declaring the Area as an economic revitalization area and allowing deductions in accordance with the Act.

2. The Area is hereby designated an economic revitalization area (“ERA”) under Section 2.5 of the Act, subject to the requirements of the Act for the purpose of allowing a deduction from the assessed value of the Project and installation of the New Equipment, respectively.

3. The Administrative Assistant of the Common Council is hereby authorized and directed to make all filings necessary or desirable with the Elkhart County Assessor, to publish all notices required by the Act, and to take all other necessary actions to carry out the purposes and intent of this Resolution and to establish and designate the Area as an economic revitalization area.

4. The Administrative Assistant of the Common Council is further authorized and directed to file this Declaratory Resolution, together with any supporting information, with each of the officers of each taxing unit that has authority to levy property taxes in the Area, as provided in the Act.

5. This Declaratory Resolution shall be submitted to the public for hearing and remonstrance as provided by the Act; and said public hearing shall be convened by the Common Council on November 18, 2024, at 6:00 p.m., at the City Hall, 229 S. Second Street, Elkhart, Indiana 46516.

6. In accordance with Section 2.5(b) of the Act, the Common Council hereby determines that a deduction for the Project under Section 3 of the Act shall be allowed for a period of three (3) years. The amount of the deduction for each eligible year shall be according to the following deduction schedule:



<b>YEAR OF REDEVELOPMENT AND REVITALIZATION OF THE REAL ESTATE</b>	<b>2025 Payable 2026</b>	<b>2026 Payable 2027</b>	<b>2027 Payable 2028</b>	<b>2028 Payable 2029</b>	<b>2029 Payable 2030</b>	<b>2030 Payable 2031</b>
2025	100%	66%	33%	-	-	-
2026	-	100%	66%	-	-	-
2027	-	-	100%	66%	33%	-

7. The deduction schedule shall commence in the first year that the Project results in any increase in the assessed value of the Area designated as an ERA. The ERA shall expire on the last year of the applicable deduction schedule for the Project, unless terminated sooner by action of the Common Council under the Act.

8. In accordance with Section 2.5(b) of the Act, the Common Council hereby determines that a deduction for the installation of the New Equipment under Section 4.5 of the Act shall be allowed for a period of three (3) years. The amount of the deduction for each eligible year shall be according to the following deduction schedule:

<b>YEAR EQUIPMENT INSTALLED IN THE IN THE ERA</b>	<b>2025 Payable 2026</b>	<b>2026 Payable 2027</b>	<b>2027 Payable 2028</b>	<b>2028 Payable 2029</b>	<b>2029 Payable 2030</b>	<b>2030 Payable 2031</b>
2025	100%	66%	33%	-	-	-
2026	-	100%	66%	-	-	-
2027	-	-	100%	66%	33%	-

9. The deduction schedule shall commence in the first year that the New Equipment is installed in the Area designated as an ERA. The ERA shall expire on the last year of the applicable deduction schedule for the New Equipment, unless terminated sooner by action of the Common Council under the Act.

10. The Common Council, with the consent of property owner, adopts and incorporates by reference into this Resolution the provisions of Indiana Code 6-1.1-12.1-14 and imposes a fee on the property owner equal to 15% of the tax savings as determined under Indiana Code 6-1.1-12.1-14(c).

11. The Common Council hereby adopts and incorporates by reference the provisions of Indiana Code 6-1.1-12.1-12, providing that if the owner of the property owner or tenant of the property, ceases operations at the facility for which the deduction was granted, and the designating body finds that the Applicant or property owner obtained the deduction by intentionally providing false information concerning the Applicant’s or property owner's plans to continue operations at the facility, the property owner shall pay the amount determined by the County Auditor pursuant to law, after an appeal, if any.

12. The Common Council's designation of the Area as an economic revitalization area shall terminate after a public hearing held by the Common Council in accordance with the Act if the Applicant and/or property owner:

A. fails to substantially complete the Project, install the proposed New Equipment, and create and maintain the level of benefits described in the Statement of Benefits;

B. fails to enter into a written agreement with the City of Elkhart confirming the Applicant\Property Owner's commitment to comply with the project description, job creation and retention (and associated wage rates and salaries) figures contained in the Statement of Benefits; or

C. fails to continue operations at the facility for which the deduction was granted; or

D. intentionally provides false information to the designating body concerning the Applicant's or property owner's plans to continue operations at the facility.

13. The provisions of this Declaratory Resolution shall be subject in all respects to the Act and any amendments thereto.

14. This Declaratory Resolution shall take effect upon its adoption.

*[Balance of page is intentionally blank.]*

## **Exhibit A**

### **Description of Real Property**

The real property comprising the Economic Revitalization Area is described as follows:

**Property Address:**

20-07-06-203-001.000-039

**Parcel Number(s):**

5333 Beck Drive, Elkhart IN 46516

**Legal Description:**

Lot Number One (1) as the said Lot is known and designated on the recorded Plat of Beck Industrial Park Minor Subdivision No. 1; said Plat being recorded in Plat Book 34, page 29, in the Office of the Recorder of Elkhart County, Indiana.

RESOLVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arvis Dawson  
President of the Common Council

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at  
\_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Rod Roberson, Mayor

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

STATE OF INDIANA        )  
                                  ) §  
COUNTY OF ELKHART    )

I, Debra D. Barrett, Clerk of the City of Elkhart, Indiana, do hereby certify the above is a full, true and complete copy of Resolution No. R-\_\_\_\_, adopted by the Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by a vote of \_\_\_\_\_ AYES and \_\_\_\_\_ NAYS, and was approved and signed by the Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Elkhart, Indiana, this \_\_\_\_ day of \_  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Debra D. Barrett, City Clerk

## EDC of Elkhart County DIRECT PROJECT IMPACT ESTIMATES



**PROJECT:**  
**TAX DISTRICT:**

Triangle Rubber Co LLC  
039 Elkhart City Jefferson Twp

Date Printed: 9/23/2024

### PROPERTY TAX IMPACT

Current Tax Rate Calculations	Gross Rate	PTRC	Net Rate
Structures (Real Property)	3.0000	0.0000	\$ 3.0000
Machinery & Equipment (Personal Property)	3.0000	0.0000	\$ 3.0000

Project Estimates	Investment	Phase-in Schedule	
Structures (Real Property)	\$ 1,000,000	3	Years
Machinery & Equipment (Personal Property)	\$ 2,000,000	3	Years

### Tax Abatement Schedules

New Structures	Deduction Percentage	Assessed Value	Tax Rate	Tax Revenue	Tax Savings
Year 1	100%	\$ -	\$ 3.0000	\$ -	\$ 30,000
Year 2	66%	\$ 340,000	\$ 3.0000	\$ 10,200	\$ 19,800
Year 3	33%	\$ 670,000	\$ 3.0000	\$ 20,100	\$ 9,900
Year 4	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 5	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 6	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 7	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 8	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 9	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
Year 10	0%	\$ 1,000,000	\$ 3.0000	\$ 30,000	\$ -
<b>TOTAL</b>				\$ 240,300	\$ 59,700

New Machinery & Equipment	Depreciation Pool #2	Deduction Percentage	Assessed Value	Tax Rate	Tax Revenue	Tax Savings
Year 1	40%	100%	\$ -	\$ 3.0000	\$ -	\$ 24,000
Year 2	56%	66%	\$ 380,800	\$ 3.0000	\$ 11,424	\$ 22,176
Year 3	42%	33%	\$ 562,800	\$ 3.0000	\$ 16,884	\$ 8,316
Year 4	32%	0%	\$ 640,000	\$ 3.0000	\$ 19,200	\$ -
Year 5	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
Year 6	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
Year 7	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
Year 8	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
Year 9	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
Year 10	30%	0%	\$ 600,000	\$ 3.0000	\$ 18,000	\$ -
<b>TOTAL</b>					\$ 155,508	\$ 54,492

**GRAND TOTAL** \$ 395,808 \$ 114,192

### INCOME TAX IMPACT

	Total Jobs	Total Salaries	Average Salaries
Current Jobs	15	\$740,704	\$49,380
Retained Jobs	15	\$740,704	\$49,380
New Jobs	10	\$582,400	\$58,240
<b>TOTAL EMPLOYMENT</b>	25	\$1,323,104	\$52,924
<b>TOTAL ANNUAL PAYROLL</b>			\$1,323,104
<b>TOTAL ANNUAL STATE INCOME TAX @ 3.4%</b>			\$44,986
<b>TOTAL ANNUAL C.A.G.I.T. @ 1.25%</b>			\$16,539
<b>TOTAL ANNUAL C.E.D.I.T. @ 0.25%</b>			\$3,308



## REAL PROPERTY TAX PHASE-IN POINT SYSTEM

Company Name: Triangle Rubber Co. LLC

Date: 10-1-24

Address: 5333 Beck Drive, Elkhart, IN 46516

Projects will be considered for Phase-In if:

1. The company/project meets all of the criteria set forth under I.C. 6-1.1 1-12.1 et seq in the form of deductions from assessed valuation
2. The proposed new investment includes at least \$500,000 of Real Property that qualifies fro Tax Phase-In
3. Construction has not begun and/or equipment has not been ordered or the equipment will be new to Indiana
4. In addition, if the applicant is in the company, authorization of the application must be obtained from the company

TAX BASE BENEFITS		Points Possible	Points Assigned
A.	Total new investment in real property (both redevelopment (new structures) and rehabilitation)		
	'	25	
	▫ \$12,000,000 to \$23,999,999	20	
	▫ \$6,000,000 to \$11,999,999	15	
	▫ \$3,000,000 to \$5,999,999	10	
	▫ \$600,000 to \$2,999,999	5	5
<b>JOB BENEFITS</b>			
A.	Total number of jobs created at facility of proposed project		
	▫ 250 or more	25	
	▫ 100 to 249	20	
	▫ 50 to 99	15	
	▫ 25 to 49	10	
	▫ 10 to 24	5	5
B.	Total number of existing jobs at facility of proposed project		
	▫ 250 or more	5	
	▫ 100 to 249	4	
	▫ 50 to 99	3	
	▫ 25 to 49	2	
	▫ 10 to 24	1	1
C.	Median employee salary (including existing and new employees)		
	▫ \$78,000 and above	25	
	▫ \$66,000 to \$77,999	20	
	▫ \$54,000 to \$65,999	10	
	▫ \$48,000 to \$53,999	5	5
	▫ Less than \$48,000	0	
D.	Median employee compensation benefits		
	Health Insurance	2	2
	Dental Insurance	1	1
	Vision Insurance	1	1
	Life Insurance	1	1
	Disability Insurance	1	1
	Sick Leave (Paid)	1	
	Vacation (Paid)	1	
	Holidays (Paid)	1	1
	Personal Days (Paid)	1	1
	Employee Training	2	
	Tuition Reimbursement	3	
	401k/Pension Plan	2	2
	ESOP/Profit Sharing	2	
	Succession Plan	3	
<b>REDEVELOPMENT BENEFITS</b>			
A.	Project redevelops a brownfield site.	20	

B.	Project utilizes an obsolete facility that has been vacant for at least one (1) year.	10	
C.	Project utilizes an obsolete facility that is at least twenty-five (25) years old.	10	
D.	Project develops in a Qualified Census Tract as designated by US Housing & Urban Development	10	
<b>ECONOMIC DEVELOPMENT BENEFITS</b>			
	The project will be used for a national or regional headquarters.	10	
<b>INFRASTRUCTURE BENEFITS</b>			
	The applicant pays for the installation of public infrastructure in the following amount		
	▫ \$900,000 or more	10	
	▫ \$480,000 to \$899,999	6	
	▫ \$240,000 to \$479,999	3	
<b>TARGETED INDUSTRY</b>			
	The project is an industry targeted by the Elkhart County Economic Development Corporation Strategic Plan	20	
	▫ Agribusiness		
	▫ Advanced Recycling		
	▫ Automotive Tier I / Tier II Production		20
	▫ Electronics		
	▫ Financial and Professional Services		
	▫ Health Care		
	▫ Robotics		
	The project is an industry targeted by the Indiana Economic Development Corporation	10	
	▫ Aerospace & Aviation		
	▫ Advanced Manufacturing		
	▫ Cybersecurity		
	▫ Defense & National Security		
	▫ Energy		
	▫ Information Technology (IT)		
	▫ Life Sciences		
	▫ Logistics & Transportation		
	▫ Motorsports		
<b>TOTAL POINTS (180 points possible)</b>			46
<b>OPTIONAL ECONOMIC HEALTH INDICATOR</b>			
	<u>Unemployment Rate</u>	<u>Multiplier</u>	<u>Adjusted Points</u>
	0.0% - 3.4%	90%	41.4
	3.5% - 5.0%	95%	43.7
	5.1% - 8.5%	100%	46
	8.6% and Above	105%	48.3
<b>TERM RECOMMENDATION</b>			
Over 90 Points 10-Year Tax Phase-In			
72 to 90 Points 7-Year Tax Phase-In			
51 to 71 Points 5-Year Tax Phase-In			
30 to 50 Points 3-Year Tax Phase-In			



## PERSONAL PROPERTY TAX PHASE-IN POINT SYSTEM

Projects will be considered for Phase-In if:

1. The company/project meets all of the criteria set forth under I.C. 6-1.1 1-12.1 et seq in the form of deductions from assessed valuation
2. The proposed new investment includes at least \$500,000 of Real Property that qualifies fro Tax Phase-In
3. Construction has not begun and/or equipment has not been ordered or the equipment will be new to Indiana
4. In addition, if the applicant is not the company, authorization of the application must be obtained from the company

TAX BASE BENEFITS		Points Possible	Points Assigned
A.	Total new investment in business personal property (or relocation of equipment from out of State)		
	▫ \$24,000,000 and above	25	
	▫ \$12,000,000 to \$23,999,999	20	
	▫ \$6,000,000 to \$11,999,999	15	
	▫ \$3,000,000 to \$5,999,999	10	
	▫ \$600,000 to \$2,999,999	5	5
<b>JOB BENEFITS</b>			
A.	Total number of jobs created at facility of proposed project		
	▫ 250 or more	25	
	▫ 100 to 249	20	
	▫ 50 to 99	15	
	▫ 25 to 49	10	
	▫ 10 to 24	5	5
B.	Total number of existing jobs at facility of proposed project		
	▫ 250 or more	5	
	▫ 100 to 249	4	
	▫ 50 to 99	3	
	▫ 25 to 49	2	
	▫ 10 to 24	1	1
C.	Median employee salary (including existing and new employees)		
	▫ \$78,000 and above	25	
	▫ \$66,000 to \$77,999	20	
	▫ \$54,000 to \$65,999	10	
	▫ \$48,000 to \$53,999	5	5
	▫ Less than \$48,000	0	
D.	Median employee compensation benefits		
	Health Insurance	2	2
	Dental Insurance	1	1
	Vision Insurance	1	1
	Life Insurance	1	1
	Disability Insurance	1	1
	Sick Leave (Paid)	1	
	Vacation (Paid)	1	
	Holidays (Paid)	1	1
	Personal Days (Paid)	1	1
	Employee Training	2	
	Tuition Reimbursement	3	
	401k/Pension Plan	2	2
	ESOP/Profit Sharing	2	
	Succession Plan	3	
<b>REDEVELOPMENT BENEFITS</b>			
A.	Project redevelops a brownfield site.	20	
B.	Project utilizes an obsolete facility that has been vacant for at least one (1) year.	10	

C.	Project utilizes an obsolete facility that is at least twenty-five (25) years old.	10	
D.	Project develops in a Qualified Census Tract as designated by US Housing & Urban Development	10	

<b>ECONOMIC DEVELOPMENT BENEFITS</b>			
	The project will be used for a national or regional headquarters.	10	
<b>INFRASTRUCTURE BENEFITS</b>			
	The applicant pays for the installation of public infrastructure in the following amount		
	▫ \$900,000 or more	10	
	▫ \$480,000 to \$899,999	6	
	▫ \$240,000 to \$479,999	3	
<b>TARGETED INDUSTRY</b>			
	The project is an industry targeted by the Elkhart County Economic Development Corporation Strategic Plan	20	
	▫ Agribusiness		
	▫ Advanced Recycling		
	▫ Automotive Tier I / Tier II Production		20
	▫ Electronics		
	▫ Financial and Professional Services		
	▫ Health Care		
	▫ Robotics		
	The project is an industry targeted by the Indiana Economic Development Corporation	10	
	▫ Aerospace & Aviation		
	▫ Advanced Manufacturing		
	▫ Cybersecurity		
	▫ Defense & National Security		
	▫ Energy		
	▫ Information Technology (IT)		
	▫ Life Sciences		
	▫ Logistics & Transportation		
	▫ Motorsports		
<b>TOTAL POINTS (190 points possible)</b>			46
<b>OPTIONAL ECONOMIC HEALTH INDICATOR</b>			
	<u>Unemployment Rate</u>	<u>Multiplier</u>	
	0.0% - 3.4%	90%	41.4
	3.5% - 5.0%	95%	43.7
	5.1% - 8.5%	100%	46
	8.6% and Above	105%	48.3
<b>TERM RECOMMENDATION</b>			
Over 51 Points 5-Year Tax Phase-In			
30 to 50 Points 3-Year Tax Phase-In			



## Property Tax Phase-In Application to Elkhart County Government

This application is to request the designation of an Economic Revitalization Area (ERA) for the purpose of obtaining a property tax phase-in (tax abatement). The application is to be completed and signed by the owner of the property where the real property improvements, the installation of personal property, and/or the occupancy of an eligible vacant building is to occur. The designating body will review this application to determine whether a particular area should be designated as an ERA in accordance with Indiana Code (I.C.) 6-1.1-12.1 and all subsequent amendments made thereafter. The designating body makes no representation as to the effect of a designation granted by it for purposes of any further applications or approvals required under I.C. 6-1.1-12.1 and makes no representation to any applicant concerning the validity of any benefit conferred.

**Application is to offset: (check all that apply)**

- Real Property Improvements (e.g. new building, addition and/or modification)
- Personal Property (e.g. Equipment for manufacturing; research and development, logistics and distribution; or information technology.)
- Vacant Building

There is a non-refundable filing fee of \$750 for each category. This filing fee is used to defray the costs incurred in processing the application pursuant to I.C. 6-1.1-12.1-2(h). A check payable to **City Of Elkhart** must be included with the application.

General Information			
Company Name	Triangle Rubber Co, LLC		
Federal Employer I.D.(FEIN)	20-1098487	NAICS Code	326291
Website	<a href="http://www.trianglerubberco.com">www.trianglerubberco.com</a>	Year Company founded	1950
Company Business (Brief Description)			
<p>Triangle is a privately owned and managed company with 2 divisions. The company was founded by Charles Gerwels in 1950. Our newest plant is our second plastic facility, located in Elkhart, IN. The rubber division and first plastic plant are located, in Goshen, IN. The 2 Divisions are One Stop Shop for Rubber Molded Products and Plastic/Thermoplastic with On Site Laboratory and compound facility with full time chemist that is TS 16949 Registered. The current expansion opportunity consists of 10 net new jobs with \$1M leasehold improvements with new 9,000 sf warehouse addition along with overhead crane at Plant 3 in Elkhart and \$2M injection molding/robotic equipment spend as we look to expand in emerging markets of Food &amp; Beverage/Water Quality while serving our strong Automotive/RV customer base. We have triple net lease with N7 Guild so we pay the real property taxes.</p>			
Project Contact Person/Representative		Eric Levenhagen, RSM US LLP	
Address	OneAmerica Tower, 1 American Square, Suite 2800, Indianapolis, IN 46282		
Phone	317-805-6242	Email	<a href="mailto:eric.levenhagen@rsmus.com">eric.levenhagen@rsmus.com</a>
Senior Company Official		Kevin Gerwels, President	
Address	1924 Elkhart Road, Goshen, IN 46526		
Phone	574-533-3118	Email	<a href="mailto:Kevin@trianglerubberco.com">Kevin@trianglerubberco.com</a>
Proposed Project Site Information			
Property Owner(s)	N7 Guild LLC (Operating entity PECF Enterprises Inc dba Triangle Rubber Co, LLC with triple net lease to pay taxes)		
Address	5333 Beck Drive, Elkhart, IN 46516 (Plant 3)		
Parcel Number(s)	20-07-06-203-001.000-039		
Legal Description of property (attach if necessary)	BECK INDUSTRIAL PARK MINOR SUB NO. 1 LOT 1 (TIF 157)		
Does Company currently do business at this site?		Yes	<input checked="" type="checkbox"/> No <input type="checkbox"/>
If no, how is site currently being used?			
What buildings are on the site?	34,000 sf Manufacturing/Warehouse - Plant 3		
What is the condition of the buildings?			
Have the buildings at this site been vacant for more than a year?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Are the buildings at this site more than 25 years old?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	(2013)
Will the proposed project be used for a national or regional headquarters?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Is this a blighted or mitigated Brownfield site?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Current assessed value of real estate	Land	0 Improvements	2,274,900



Proposed Project Information			
Description of proposed improvements (Attach additional project details, if needed)			
Structures:	Adding 9,000 sf warehouse (34k sf existing footprint) - Leasehold Improvements to overhead crane		
Manufacturing equipment:	New plastic injection molding and automation robotic equipment		
Research and Development equipment:			
Logistics and Distribution equipment:			
Information Technology equipment:			
Proposed start date for project	11/1/2024	Proposed end date for project	12/31/2025
Proposed start date for operations	Spring 2025		

Has the new equipment associated with this project been used by the owner/taxpayer (or related entity) in the state of Indiana?	Yes		N/A	
	No	X		
If yes, provide details including where the equipment will come from and how it will be acquired:				

Owned R&D equipment being relocated from other company facilities				
Will the new equipment associated with this project be leased?	Yes		N/A	
	No	X		
If yes, provide details including from whom and for what term				

Will this project require approval of rezoning, plat, development plan, vacation, variance, special exemption, or contingent use?	Yes		No	X
If yes, list:				

Proposed Investment					
Calendar Year	2024	2025	2026	2027	Total
Land acquisition					\$0
New building construction	\$260,000	\$400,000			\$660,000
Existing building improvements	\$90,000	\$250,000			\$340,000
Manufacturing equipment	\$800,000	\$1,200,000			\$2,000,000
Research and Development equipment					\$0
Logistics and Distribution equipment					\$0
Information Technology equipment					\$0
On-site rail infrastructure					\$0
On-site fiber infrastructure					\$0
<b>Grand Total</b>	<b>\$1,150,000</b>	<b>\$1,850,000</b>			<b>\$3,000,000</b>

**Statutory Findings**

Indiana Code 6-1.1-12.1-1 requires that the designating body make specific findings to justify the designation of the property as an Economic Revitalization Area. One finding is that the subject property is either in an area: **"Which has become undesirable for, or impossible of, normal development and occupancy because of lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property"** or **"Where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues."**

Are improvements on project site and/or the surrounding area obsolete?	Yes		No	X
If yes, describe the obsolescence:				
Are buildings at project site substandard for normal use and development?	Yes		No	X
If yes, explain what is substandard so as to prevent normal use and development:				
Has project site and/or surrounding area declined in value in last 10 years?	Yes		No	X
If yes, explain what caused the decline in value:				
Has project site and/or surrounding area failed to develop for last 10 years?	Yes	X	No	
If yes, explain what characteristics make this site difficult to develop:				
There are too many available buildings on market to develop new buildings				
Are any facilities at project site technologically, economically or energy obsolete?	Yes		No	X
If yes, describe how the facilities are obsolete:				



**Community Benefits**

We provide 401k, health insurance and medical benefits to all employees. We support local businesses in supply chain and employee consumer spending. This expansion will create approximately 10 new job opportunities including Machine Technicians, Quality Technicians, Maintenance Technician, Process Technician, and Engineering.

**Impacts and status**

Will any additional public utilities, services or other public infrastructure be required by this project?

Yes  X  No

If yes, explain the type required and the amount the applicant will be contributing toward the public infrastructure.

Additional power must be run to the facility for its intended use. Applicant is working with AEP on ED Rider.

**Employment**

Will all current employees be retained at Project Site as a result of this project?

Yes  X  No

If no, explain:

**Current Full-Time Employment at Project Site**

	Number of Jobs	Average Hourly Wage*	Average Annual Wage*	Salary Range*	Median Annual Wage**
Management	1	\$38.00	\$75,000	\$60,000 - \$90,000	\$75,000
Professional/Technical	1	\$40.00	\$83,200	\$75,000 - \$90,000	\$83,000
Sales					
Office/Administrative Support	1	\$26.00	\$54,080	\$45,000 - \$65,000	\$55,000
Production Supervision	2	\$24.60	\$51,168	\$45,000 - \$60,000	\$52,500
Production	9	\$19.65	\$40,872	\$30,000 - \$50,000	\$40,000
Maintenance	1	\$28.00	\$58,240	\$50,000 - \$65,000	\$57,500
Other					
<b>Total</b>	<b>15</b>	<b>\$23.74</b>	<b>\$49,380</b>		

**Full-time jobs to be created as a result of this project**

	Number of Jobs	Average Hourly Wage*	Average Annual Wage*	Salary Range*	Median Annual Wage**
Management					
Professional/Technical	1	\$28.00	\$58,240	\$50,000-65,000	\$57,000
Sales					
Office/Administrative Support	1	\$26.00	\$54,080	\$50,000-60,000	\$55,000
Production Supervision					
Production	7	\$25.00	\$52,000	\$45,000 - 60,000	\$52,500
Maintenance	1	\$28.00	\$58,240	\$50,000-65,000	\$57,000
Other					
<b>Total</b>	<b>10</b>	<b>\$28.00</b>	<b>\$58,240</b>		

\*Do NOT include costs of any benefits

\*\* Median Annual Wage: The middle (midpoint) salary of all positions rather than the average (mean) salary

**Additional financial compensation (attach additional pages, if needed)**

Explain in detail, by job category, any additional financial compensation earned. (Examples may include commission, bonus, overtime, piece rate, attendance, etc.)

Bonus under management incentive plan or sales incentive plan ranging 10% to 20% of base for Management and Sales positions.

**Projected Phasing of new jobs**

Calendar Year	2024	2025	2026	2027	Total
Management					0
Professional/Technical		1			0
Sales					0
Office/Administrative Support		1			1
Production Supervision					0
Production		7			7
Maintenance		1			1
Other					0
<b>Total</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>10</b>

**Company Benefits**

Check all of the benefits listed below that the company provides to workers who have been employed for 6 months or longer. The company must pay at least 70% of the benefit cost.

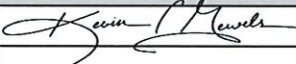
		X		X	Comments
Health Insurance	Yes	X	No		
Dental Insurance	Yes	X	No		
Vision Insurance	Yes	X	No		
Life Insurance	Yes	X	No		
Disability Insurance	Yes	X	No		
Sick Leave (Paid)	Yes		No	X	
Vacation (Paid)	Yes		No	X	
Holidays (Paid)	Yes	X	No		
Personal Days (Paid)	Yes	X	No		
Employee Training	Yes		No	X	
Tuition Reimbursement	Yes		No	X	
401K/Pension	Yes	X	No		
ESOP/Profit Sharing	Yes		No	X	
Uniforms	Yes		No	X	
Other (List)					

**Signature**

*Indiana Code 6-1.1-12.1-14 provides that the designating body for the tax phase-in requested, may impose a fee not exceeding 15% of the reduction in property taxes to which the undersigned applicant is entitled in each year in which the undersigned applicant's property tax liability is reduced by a deduction approved pursuant to this application.*

The undersigned applicant consents to the following:

- Imposition of this fee provided that such fee is not more than fifteen percent (15%) of the reduction of property taxes for any tax year. These fees will be used for future Economic Development efforts.
- The current assessed tax base for this property will not be appealed over the tax phase-in period unless one of the exceptions in the tax phase-in policy applies.
- Filing this application constitutes a request for Economic Revitalization Area designation only and does not constitute an automatic reduction of property taxes. I understand it is the responsibility of property owners to file the appropriate forms on an annual basis with the Elkhart County Auditor and other governing bodies, as required, to receive any reduction of property taxes.
- I certify the information and representations of this application are true and complete.
- I further certify that I am the owner/taxpayer or have the authority of the owner/taxpayer to make this application and to consent to the fee as described above.

Signature			
Printed	Kevin Gerwels		
Title	President	Date	9/23/2024

ATTACHMENTS: Include all relevant Statement of Benefits (SB-1) forms





**STATEMENT OF BENEFITS  
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R7 / 1-21)  
Prescribed by the Department of Local Government Finance

20 <u>24</u> PAY 20 <u>25</u>
FORM SB-1 / Real Property
<b>PRIVACY NOTICE</b> Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)  
 Residentially distressed area (IC 6-1.1-12.1-4.1)

**INSTRUCTIONS:**

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
- To obtain a deduction, a Form 322/RE must be filed with the county auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between January 1 and May 10 of a subsequent year.
- A property owner who files for the deduction must provide the county auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
- For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

**SECTION 1 TAXPAYER INFORMATION**

Name of taxpayer <b>N7 Guild LLC (Operating entity PECF Enterprises Inc dba Triangle Rubber Co, LLC pays tax in triple net lease)</b>		
Address of taxpayer (number and street, city, state, and ZIP code) <b>5333 Beck Drive, Elkhart, IN 46516 (Plant 3)</b>		
Name of contact person <b>Kevin Gerwels, President</b>	Telephone number <b>( 574 ) 533-3118</b>	E-mail address <b>Kevin@trianglerubberco.com</b>

**SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT**

Name of designating body <b>Elkhart City Council</b>	Resolution number
Location of property <b>5333 Beck Drive, Elkhart, IN 46516 (Plant 3)</b>	County <b>ELKHART</b>
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) <b>We are planning 9,000 building addition to existing 34,000 sf building for more warehouse space and overhead crane upgrades at parcel #20-07-06-203-001.000-039. Legal description is BECK INDUSTRIAL PARK MINOR SUB NO. 1 LOT 1.</b>	DLGF taxing district number <b>039/039</b>
	Estimated start date (month, day, year) <b>11/1/2024</b>
	Estimated completion date (month, day, year) <b>12/31/2025</b>

**SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT**

Current Number	Salaries	Number Retained	Salaries	Number Additional	Salaries
15.00	\$740,704.00	15.00	\$740,704.00	10.00	\$582,400.00

**SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT**

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values		
Plus estimated values of proposed project	1,000,000.00	1,000,000.00
Less values of any property being replaced		
Net estimated values upon completion of project	1,000,000.00	1,000,000.00

**SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER**

Estimated solid waste converted (pounds) _____	Estimated hazardous waste converted (pounds) _____
--	--

Other benefits

**SECTION 6 TAXPAYER CERTIFICATION**

I hereby certify that the representations in this statement are true.

Signature of authorized representative 	Date signed (month, day, year) <b>9/23/2024</b>
Printed name of authorized representative <b>Kevin Gerwels</b>	Title <b>President</b>



**FOR USE OF THE DESIGNATING BODY**

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years\* (see below). The date this designation expires is \_\_\_\_\_. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*
- B. The type of deduction that is allowed in the designated area is limited to:
  - 1. Redevelopment or rehabilitation of real estate improvements  Yes  No
  - 2. Residentially distressed areas  Yes  No
- C. The amount of the deduction applicable is limited to \$ \_\_\_\_\_.
- D. Other limitations or conditions (specify) \_\_\_\_\_
- E. Number of years allowed:
 

<input type="checkbox"/> Year 1	<input type="checkbox"/> Year 2	<input type="checkbox"/> Year 3	<input type="checkbox"/> Year 4	<input type="checkbox"/> Year 5 (* see below)
<input type="checkbox"/> Year 6	<input type="checkbox"/> Year 7	<input type="checkbox"/> Year 8	<input type="checkbox"/> Year 9	<input type="checkbox"/> Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?  Yes  No  
 If yes, attach a copy of the abatement schedule to this form.  
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number (     )	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by (signature and title of attester)	Printed name of attester	

\* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. Except as provided in IC 6-1.1-12.1-18, the deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

**IC 6-1.1-12.1-17**

**Abatement schedules**

**Sec. 17. (a)** A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

**(b)** This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. Except as provided in IC 6-1.1-12.1-18, an abatement schedule may not exceed ten (10) years.

**(c)** An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.





**STATEMENT OF BENEFITS  
PERSONAL PROPERTY**

State Form 51764 (R5 / 1-21)

Prescribed by the Department of Local Government Finance

**FORM SB-1 / PP**

**PRIVACY NOTICE**

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

**INSTRUCTIONS:**

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between January 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between January 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved, must submit Form CF-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. For a Form SB-1/PP that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/PP that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. (IC 6-1.1-12.1-17)

SECTION 1 TAXPAYER INFORMATION									
Name of taxpayer <b>Triangle Rubber Co, LLC</b>			Name of contact person <b>Kevin Gerwels, President</b>						
Address of taxpayer (number and street, city, state, and ZIP code) <b>1924 Elkhart Rd, Goshen IN 46526</b>				Telephone number <b>( 574 ) 533-3118</b>					
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT									
Name of designating body <b>Elkhart City Council</b>				Resolution number (s)					
Location of property <b>5333 Beck Drive, Elkhart, IN 46516 (Plant 3)</b>			County <b>ELKHART</b>		DLGF taxing district number <b>039/039</b>				
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary.) <b>We are planning purchase of new Injection molding/robotics equipment at parcel P-039-002-00018. Legal description is BECK INDUSTRIAL PARK MINOR SUB NO. 1 LOT 1. The real estate parcel number is #20-07-06-203-001.000-039.</b>				ESTIMATED					
						START DATE	COMPLETION DATE		
				Manufacturing Equipment		11/01/2024	12/31/2025		
				R & D Equipment					
				Logist Dist Equipment					
IT Equipment									
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT									
Current Number <b>15</b>	Salaries <b>\$740,704</b>	Number Retained <b>15</b>	Salaries <b>\$740,704</b>	Number Additional <b>10</b>	Salaries <b>\$582,400</b>				
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT									
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT		
	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	
	Current values								
	Plus estimated values of proposed project		2,000,000	600,000					
	Less values of any property being replaced								
Net estimated values upon completion of project		2,000,000	600,000						
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER									
Estimated solid waste converted (pounds) _____			Estimated hazardous waste converted (pounds) _____						
Other benefits:									
SECTION 6 TAXPAYER CERTIFICATION									
I hereby certify that the representations in this statement are true.									
Signature of authorized representative 				Date signed (month, day, year) <b>9/23/2024</b>					
Printed name of authorized representative <b>Kevin Gerwels</b>			Title <b>President</b>						



**FOR USE OF THE DESIGNATING BODY**

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

- A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years \* (see below). The date this designation expires is \_\_\_\_\_. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*
- B. The type of deduction that is allowed in the designated area is limited to:
- |  |                              |                             |  |
|--|------------------------------|-----------------------------|--|
| 1. Installation of new manufacturing equipment;            | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Enhanced Abatement per IC 6-1.1-12.1-18<br><i>Check box if an enhanced abatement was approved for one or more of these types.</i> |
| 2. Installation of new research and development equipment; | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| 3. Installation of new logistical distribution equipment.  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| 4. Installation of new information technology equipment;   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
- C. The amount of deduction applicable to new manufacturing equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. *(One or both lines may be filled out to establish a limit, if desired.)*
- D. The amount of deduction applicable to new research and development equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. *(One or both lines may be filled out to establish a limit, if desired.)*
- E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. *(One or both lines may be filled out to establish a limit, if desired.)*
- F. The amount of deduction applicable to new information technology equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. *(One or both lines may be filled out to establish a limit, if desired.)*
- G. Other limitations or conditions (specify) \_\_\_\_\_

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction is allowed for:

- |                                 |                                 |                                 |                                 |                                  |   |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------|---|
| <input type="checkbox"/> Year 1 | <input type="checkbox"/> Year 2 | <input type="checkbox"/> Year 3 | <input type="checkbox"/> Year 4 | <input type="checkbox"/> Year 5  | <input type="checkbox"/> Enhanced Abatement per IC 6-1.1-12.1-18<br>Number of years approved: _____<br><i>(Enter one to twenty (1-20) years; may not exceed twenty (20) years.)</i> |
| <input type="checkbox"/> Year 6 | <input type="checkbox"/> Year 7 | <input type="checkbox"/> Year 8 | <input type="checkbox"/> Year 9 | <input type="checkbox"/> Year 10 |   |

I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?  Yes  No  
If yes, attach a copy of the abatement schedule to this form.  
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved by: (signature and title of authorized member of designating body)	Telephone number ( )	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by: (signature and title of attester)	Printed name of attester	

\* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

**IC 6-1.1-12.1-17**

**Abatement schedules**

**Sec. 17. (a)** A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

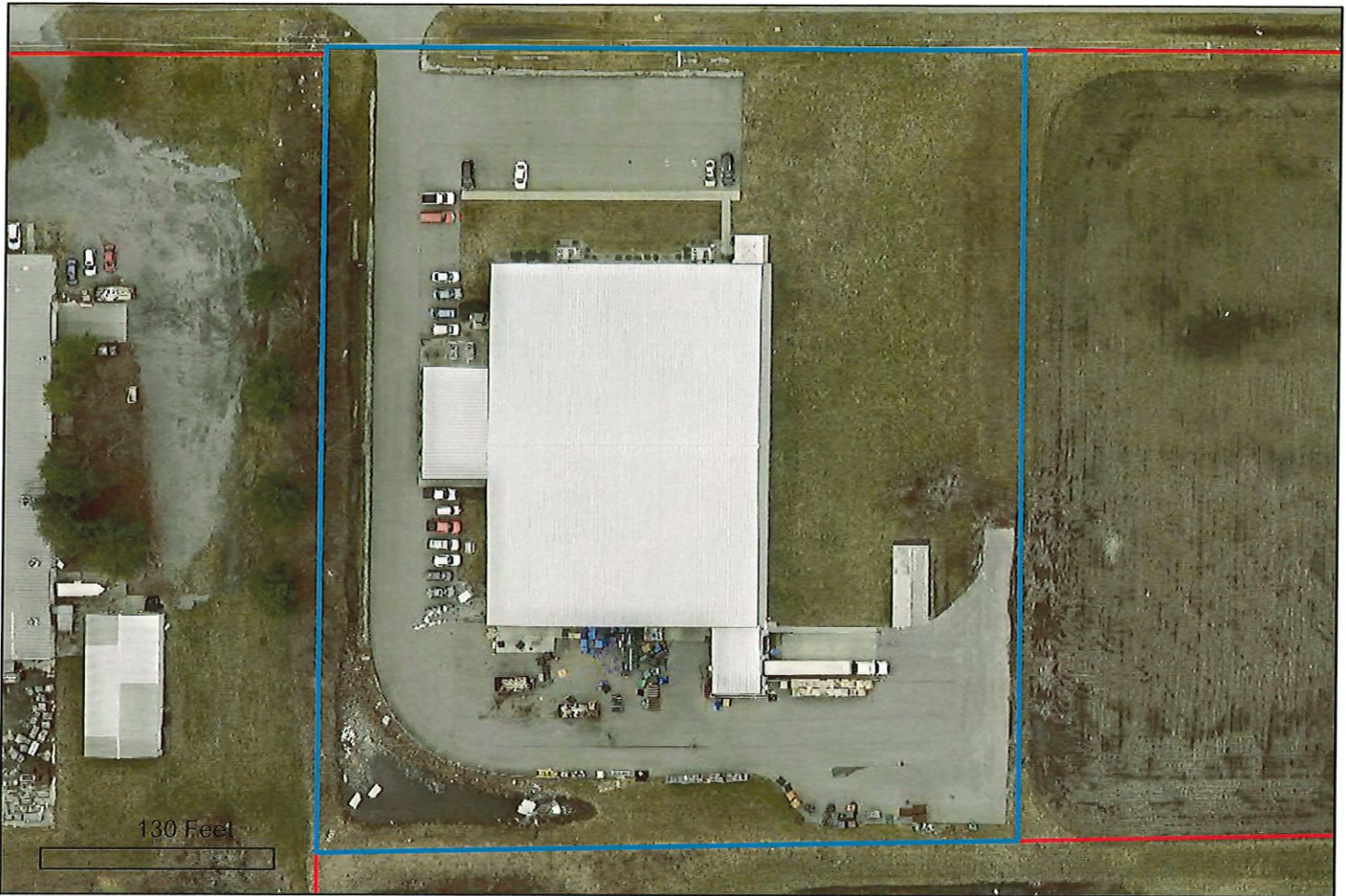
**(b)** This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. Except as provided in IC 6-1.1-12.1-18, an abatement schedule may not exceed ten (10) years.

**(c)** An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



# Elkhart County, IN

5333 BECK DRIVE, ELKHART, IN 46516  
20-07-06-203-001.000-039



## Parcel Information

**Parcel Number:** 20-07-06-203-001.000-039  
**Alt Parcel Number:** 07-06-203-001-039  
**Property Address:** 5333 BECK DRIVE  
ELKHART, IN 46516  
**Neighborhood:** 3937013-Industrial-Acre-Town Public  
Utilities-Aver  
**Property Class:** Industrial: Light Manufacturing & Assembly - 340  
**Owner Name:** N7 GUILD LLC  
**Owner Address:** 10241 ARCADIAN CT  
GRANGER, IN 46530  
**Legal Description:** BECK INDUSTRIAL PARK MINOR SUB NO.  
1 LOT 1; (TIF 157)

## Taxing District

**Township:**  
**Corporation:** Middlebury Community Schools

## Land Description

<u>Land Type</u>	<u>Acreage</u>	<u>Dimensions</u>
Primary Com & Ind	2.84	
Undeveloped Unusable Com & Ind	0.36	
Undeveloped Usable Com & Ind	0.18	

**Exhibit A**

**Legal Description**

As to Parcel 1:

Lot Number One (1) as the said Lot is known and designated on the recorded Plat of Beck Industrial Park Minor Subdivision No. 1; said Plat being recorded in Plat Book 34, page 29, in the Office of the Recorder of Elkhart County, Indiana.

Being tax code number 20-07-06-203-001.000-039



BOARD OF PUBLIC SAFETY  
Tuesday, October 8, 2024

Chairman Kara Boyles called a regular meeting of the Board of Public Safety to order at 9:00 a.m., Tuesday, October 8, 2024. Maria Leon called the roll. Kara Boyles, Dacey Davis and Brian Thomas were present. Anthony Coleman and LaLaesha Black were absent.

1. APPROVE AGENDA

On motion by Dacey Davis, seconded by Brian Thomas and carried 3-0, the agenda was approved as presented.

2. MINUTES- Regular Meeting September 24, 2024

On motion by Brian Thomas, seconded by Dacey Davis and carried 3-0, the minutes from September 24, 2024 were approved as presented.

3. POLICE

Chief Daniel Milanese presented revised policies for approval. The Policies presented were: 307 Vehicle Pursuits, 313 Child Abuse, 340 Volunteers, 401 Bias Based Policing, 410 Involuntary Detentions, 431 Suspicious Activity Reporting, and 700 Department-Owned and Personal Property. Chief Milanese explained the changes are due to updates in State or Federal Law. On motion by Dacey Davis, seconded by Brian Thomas and carried 3-0, the Board approved all of the Policy changes as presented.

4. FIRE

Chief Rodney Dale requested the purchase of two Sutphen Pumpers Stock #571 and #576 on Sutphen Monarch Chassis for the total sum of \$1,775,400.00. The price is based on Sutphen Sourcewell contract 113021-SUT. On motion by Brian Thomas, seconded by Dacey Davis and carried 3-0, the Board approved the purchase of two Sutphen Pumpers Stock #571 and #576 on Sutphen Monarch Chassis for the total sum of \$1,775,400.00.

5. COMMUNICATIONS

Dustin McLain presented the September Month End Report. On motion by Dacey Davis, seconded by Brian Thomas and carried 3-0, the Board accepted and placed on file the September Month End Report.

6. OTHER PUBLIC SAFETY MATTERS

Fire Merit Commission Minutes

On motion by Dacey Davis, seconded by Brian Thomas and carried 3-0, the Board accepted and placed on file the Fire Merit Commission minutes from August 26, 2024 as presented.

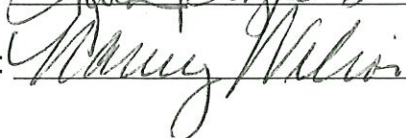
7. ADJOURNMENT

Chairman Kara Boyles adjourned the Board of Safety meeting at 9:13 a.m.



Kara Boyles, Chairman

Attest:



Nancy Wilson, Clerk of the Board