
Agenda

1. **Open Meeting**

2. **Pledge of Allegiance**

3. **Roll Call**

4. **Minutes**

[January 17, 2024](#)

5. **Communications**

6. **Communications from the Audience** *(Five minutes each speaker, Springdale Code §30.05)*

7. **Ordinances and Resolutions**

[Ordinance No. 03-2024 \(Second Reading\)](#)

[AN ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO](#)

[Ordinance No. 04-2024 \(Second Reading\)](#)

[AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO](#)

[Ordinance No. 05-2024](#)

[AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE OF OHIO DEPARTMENT OF TRANSPORTATION FOR THE USE OF JOBS AND COMMERCE FUNDS TO BE APPLIED TO THE COST OF THE NORTHLAND BOULEVARD RECONSTRUCTION PROJECT AND DECLARING AN EMERGENCY](#)

[Ordinance No. 06-2024](#)

[AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ENABLE INJECTIONS, INC. RELATED TO A JOB RETENTION AND CREATION INCENTIVE AGREEMENT AND DECLARING AN EMERGENCY](#)

[Ordinance No. 07-2024](#)

[AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING REIMBURSEMENT AGREEMENT, APPROVING RELATED MATTERS, AND DECLARING AN EMERGENCY](#)

8. **Old Business**

9. **New Business**

10. **Meetings and Announcements**

11. **Communications from the Audience** *(Five minutes each speaker, Springdale Code §30.05)*

12. **Update on Legislation Still in Development**

13. **Recap of Legislative Items Requested for Next Council Meeting**

14. **Adjournment**

City of Springdale Council

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President Anderson (continued): amendment because the local match had to go up, I believe, from increased costs, for those interested, it's a \$6 million dollar payment that was in the TIP from OKI. The funds from the local match had to go up from \$1.6 million (dollars) to \$3.9 million (dollars), which is a substantial cost increase for that connector, but, they're telling us that it doesn't change the plan at all. The effective date is still in the works for the fourth quarter of 2025, which is good news. On that front, it's not good news as an omen for how much things are starting to go up for construction like that. So, it's something to keep an eye on. That's it for OKI, unless there's any questions.

Mayor's Report

Mayor Hawkins: We had the Winter Pep Rally and Coaches Memorial inductions on January 5th. Well attended by the kids and the elected officials, and others. We inducted in Mr. Keith Perkins, and Mr. Charlie Hormann; two folks who have given tremendously with regard to the City and Mr. Perkins was my principal going way back. He was lots of people's principal. He was around for a long time. But, that was a wonderful event. Also, the City was awarded the Award of Financial Reporting Achievement for Excellence in Financial Reporting. The report is judged by an impartial panel to meet the high standards of the program, which includes demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the report. So, that was an honor for the City and our Financial Department. With that, that concludes my report.

Administrator's Report

Mr. Jones: A few things here. Reminders that you can register by contacting our Community Center regarding basic State and Federal tax services that will be provided free of charge. Again, want to remind folks that we're taking registrations (for) softball, baseball, t-ball, coach pitch, soccer, and volleyball. Also, applications for employment for lifeguards, concession workers, gate attendants, and Aquatics Director. We'd like to thank Mr. Agricola for taking photos this evening for our Council. Remind folks that, sorry for the confusion, the Building Official and the Director of Parks and Rec will be making the introductions at the next Council meeting of new staff. Thank you.

Law Director's Report

Mr. Braun: Since Mr. Agricola is here, I just wanted to point out that I truly appreciated all of his work, and I'm happy to report to Council that on the Northland Boulevard Project, all of the land easements were obtained without us having to engage in any kind of litigation or appropriation. It was a good effort on Mr. (Shawn) Riggs part, Mr. (Jeff) Agricola, and the contractor that we hired, and so, you won't see anything else on your agenda about it. All of them were obtained in what I would consider to be record, if not rushed time, and, I would also want to thank the Ditsch Pretzel folks for working with us to resolve some issues that they had, and, as usual, they're good corporate citizens, and they did not fail here either, and, so, we were able to get them all taken care of. So, I just wanted to report that to Council.

President Anderson: Thank you.

Engineer's Report

Mr. Riggs: My report will be brief. Last month, we primarily focused on Northland Boulevard; getting the easements. We're going to submit, I believe the right-of-way certification (to) ODOT (Ohio Department of Transportation) as early as tomorrow. It's due Friday, at least in the schedule. But, we'll be able to meet that schedule. We've also been working on a grant application for Hamilton County under the Community and Economic Development Assistance Program. It's another \$100,000 we're looking to acquire for the Northland Boulevard Project. That's all I had.

Rental Program Committee

Mr. Vanover: The Rental Program Committee, we actually don't have a report this evening, but we are meeting on the 24th at 2:00 p.m. to press forward and deal with some of the original issues; come back to them, so, we'll have reports at a future time.

City of Springdale Council

January 17, 2024

Communications - None

Communications from the Audience - None

Ordinances and Resolutions

Ordinance No. 02-2024

AN ORDINANCE ADOPTING THE ANNUAL APPROPRIATION/ESTIMATED RECEIPTS FOR FISCAL YEAR ENDING DECEMBER 31, 2024

Mrs. Sullivan-Wisecup made a motion to adopt Ordinance No. 02-2024; Mr. Vanover seconded.

Ordinance No. 02-2024 passes with seven affirmative votes.

Ordinance No. 03-2024

AN ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO

President Anderson: Council, this is a first reading. We will see it again. Are there any questions? (None) We will see that next time.

Ordinance No. 04-2024

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO

President Vanover: Council, this is a first reading. Are there any questions or discussion?

Mr. Vanover: Just a question, I don't ever recall ODNR (Ohio Department of Natural Resources) being involved in the FEMA (Federal Emergency Management Agency) Flood Plan. Is this a new hand off?

President Anderson: (addressing Mr. Agricola) I'm glad you were here for the pictures. It turns out you're going to help us with some of these ODNR questions.

Mr. Agricola: Right. My understanding is ODNR has always participated in this as kind of the State representative, if you will, for the national group. So, I think this is usual.

Mr. Vanover: Alright.

President Anderson: Did you want us to follow up, or is that enough?

Mr. Vanover: No. That's good.

President Anderson: Okay. Any other questions at this point? (None) We will see that ordinance again at our next meeting.

Executive Session – Economic Development

Mrs. Sullivan-Wisecup: I now move that we go into Executive Session pursuant to Article II(D)(1) of the Charter of the City of Springdale to consider Economic Development matters.

Mr. Vanover: Second.

The motion was passed with a 7-0 vote to go into Executive Session. Council departed chambers at 7:27 p.m. Council returned to chambers at 8:27 p.m.

City of Springdale Council

January 17, 2024

Old Business

Mr. Uhl: Just a quick update from our last meeting. We had a gentleman come in to discuss the issues that the carts have created over on Strategic Parkway from the Amazon delivery drivers. They're all independent contractors that are parking their personal vehicles out along Strategic Parkway, getting packages and carts, and leaving the carts. Our Police Department has been working on this for several weeks. They had a meeting with our Fire Department and Public Works, and, also, the Police Department met with Amazon's management team. Amazon's management team is not very happy about it either. They are 100% supportive of our efforts from a policing perspective, and, they are continuing to work with our Police Department and our Fire Department with potential solutions to the problem. They are committed to doing several things, that are still kind of in development, but, they're hoping to alleviate the issue here sooner than later because it creates a lot of work for them as well to go back and retrieve. So, one of the big issues that management relayed was only salaried employees are permitted to leave the premises to go retrieve the carts, and there's only a couple of those salaried employees there during the course of the day. Most are hourly, and they have to stay within the building. So, that kind of creates some of that delay. But, nonetheless, through a week or so, it runs in spurts; there will be days where there's none, and then there's days where there's several. So, the day I happened to reach out the Police Chief, he said that he noticed that the past two mornings there were none, but the morning that I called and asked him about it, he went out there and said, "Yeah, there's probably three or four that were laying around." The nice thing is Amazon's management team is committed to resolving the issue as well. So, hopefully sooner than later we'll get to some resolve.

President Anderson: And you'd let the resident know that we had some resolution there?

Mr. Uhl: We haven't yet, but we will.

President Anderson: Thank you.

Ms. McFarland: I did speak with someone who I know that does Amazon through there, and they said they have a Facebook group, and they have been putting notices up to all the independent contractors (that) they are pulling their ability to deliver for Amazon if they find that they left those carts out there. So, Amazon is saying that they are working on it. It is, but, it's also a matter of getting rid of five, and five more come in ready to do it. So, I can say for sure that they have been addressing it, so, at least that's a positive thing I guess from our perspective.

New Business - None

Meetings and Announcements

Mrs. Sullivan-Wisecup: Planning Commission will meet in these chambers on Tuesday, February 13th at 7:00 p.m.

Mr. Vanover: As I stated earlier, the Rental (Program) Committee will meet Wednesday, the 24th at 2:00. I'm guessing we'll be in the conference room back there.

Mr. Gleaves: The January 23rd BZA meeting has been cancelled. The next scheduled meeting will be February 27th in these chambers.

Ms. McFarland: The Board of Health meeting for February will be on February 8th at 6:30 in the room next to chambers.

President Anderson: Alright. New time; 6:30.

Mr. Uhl: Civil Service Commission will meet on Thursday, February 1st at 2:00 p.m. in Council Conference Room.

City of Springdale Council

January 17, 2024

Mr. Hawkins: Just a reminder to put on your calendars SYB (Springdale Youth Boosters) Annual Cinema Horse Racing, February 24th at 7:00 p.m. until 11:00 p.m. And, thank you, and it's \$15 per ticket.

President Anderson: Does anyone else have the SYB information to share?

Ms. McFarland: February 24th is the SYB Horse Races. It's \$15 per ticket. That buys you an entry into the raffle and you do not have to be present. They are also working on raffle baskets, and my phone was literally blowing up all day about some of the exciting baskets that they got and it's going to be huge. There's going to be a ton of great baskets available for raffle tickets.

President Anderson: And people can get tickets or drop off tickets and register at the Rec Center, at the Community Center.

Mr. Gleaves: Question about the horse race SYB function. A couple of people asked me; you can get tickets at the Rec Center. Is it cash only, or can you charge them?

Mrs. Sullivan-Wisecup: I know that if you pay at the Rec Center, I believe that they do have the ability to use credit cards, just like they do if they're paying if you pay ahead of time at the Rec Center. On the day of, what it has historically been is that you come and pay in cash on the day of. The other thing I wanted to mention about the raffle. With the entrance, Ms. McFarland said you get an entrance to the raffle. This year's entrance raffle is very exciting because you have a choice of the grill or \$500 cash, and that is something different that they have not had before, and I think that's a really, really big thing and I heard about the new raffles that they are pulling and I'm very, very excited for this year. I think it's going to be really a great one, and, I encourage everyone to come out.

Communications from the Audience - None

Update on legislation still in development

Mr. Jacobs: As you review your Internal Memorandum, Item III, Ordinance No. 02-2024; An Ordinance Adopting the Annual Appropriations/Estimated Receipts for Fiscal Year Ending December 31, 2024 was passed with seven affirmative votes.

Recap of items requested for next Council meeting

Mr. Jacobs: Item Number I, Ordinance No. 03-2024, we had a first reading; An Ordinance Amending Chapter 39 of the Code of Ordinances of the City of Springdale, Ohio. Item Number II we had our first reading for Ordinance No. 04-2024; An Ordinance Amending Chapter 154 of the Code of Ordinances of the City of Springdale, Ohio. All other matters are forthcoming unless Administration has anything.

Adjournment

Mr. Jacobs made a motion to adjourn; Mrs. Sullivan-Wisecup seconded the motion and council adjourned at 8:36 p.m.

Respectfully submitted,

Nicole Browder
Clerk of Council

Minutes Approved:
Jeffrey Anderson, President of Council

_____, 2024

ORDINANCE NO. 03-2024

AN ORDINANCE AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO

WHEREAS, a Charter Amendment was passed by the voters of Springdale in the general election of November 2021 which eliminated the elected position of Clerk of Council/Finance Director; and

WHEREAS, the approved elimination of the position of Clerk of Council/Finance Director became effective December 1, 2023; and

WHEREAS, Council seeks to make certain amendments to Chapter 39 of the Code of Ordinances consistent with the Charter revisions that eliminated the position of Clerk of Council/Finance Director; and

WHEREAS, along with these changes, other revisions are being recommended to Section 39.05 Investments consistent with Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, _____ members elected thereto concurring:

Section 1. Chapter 39 of the Code of Ordinances of the City of Springdale shall be amended as provided for in the attached Exhibit A which is incorporated herein by reference. All other provisions contained in Chapter 39 of the Code of Ordinances of the City of Springdale not specifically revised in the attached Exhibit A shall remain in full force and effect.

Section 2. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall take effect on the earliest date allowed by law.

Passed this ____ day of _____, 2024.

President of Council

Attest:

Clerk of Council

Approved:

Mayor

Date

EXHIBIT A

ORDINANCE NO. 03-2024

CHAPTER 39: DEPOSIT AND INVESTMENT PROCEDURE

Section

- 39.01 Definitions.
- 39.02 Findings by council: inapplicability of and incorporation of state laws.
- 39.03 Depositories.
- 39.04 Security for repayment of deposits.
- 39.041 Pooling of securities.
- 39.05 Investments.
- 39.06 Miscellaneous provisions.
- 39.07 Special funds.

§ 39.01 DEFINITIONS.

As used in this chapter, unless another definition is provided or the content otherwise requires:

(A) **ACTIVE DEPOSIT** means a deposit of the City's public moneys payable or withdrawals, in whole or in part, on demand, or a deposit in a negotiable order of withdrawal account as authorized in the Consumer Checking Account Equity Act of 1980, 94 Stat. 146, 12 U.S.C.A. 1832 (a).

(B) **ELIGIBLE DEPOSITORY** and **ELIGIBLE DEPOSITORIES** means:

(1) Any national bank located in Ohio and any bank as defined by R.C. § 1101.01 which is subject to inspections by the Ohio Superintendent of Banks; and

(2) Any domestic building and loan association as defined in R.C. § 1151.01 authorized to accept deposits; and

(3) The State Treasury Asset Reserve of Ohio (StarOhio), an investment pool established by R.C. Ch. 135, for investment of interim deposits only.

(C) **PUBLIC MONEYS** means all moneys in the treasury of the City, or moneys coming lawfully into the possession of the City's Clerk.

(D) **UNIFORM DEPOSITORY ACT** means R.C. Chapter 135 and any amendment or supplement thereto. Wherever any provision of the Uniform Depository Act is made applicable under this chapter, such provisions are applicable only to the extent that they are not in conflict with or inconsistent with the City's Charter and ordinances or resolutions. (Ord. 73-1988, passed 12-7-88; Am. Ord. 77-1991, passed 12-4-91)

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§ 39.02 FINDINGS BY COUNCIL: INAPPLICABILITY OF AND INCORPORATION OF STATE LAWS.

(A) Council hereby makes the following findings with respect to the authorization and the establishment of the policies and procedures for the deposit and investment of public moneys in the City's treasury:

(1) The authorization ~~ana-and~~ establishment of such policies and procedures are powers of local self-government that may be exercised by the City through its ordinances under Sections 3 and 7 of Article XVIII of the Ohio Constitution and Article I of the City's Charter; and

(2) The authorization and establishment of such policies and procedures are in the best interests of the City and its citizens:

(a) To provide a more efficient management of the City's moneys and investments; and

(b) To enable the City to earn a greater yield on its investments and provide safeguards of the City's moneys.

(B) It is hereby determined that the Uniform Depository Act shall not apply to the City, except as it may be adopted by reference under this chapter, and further provided that R.C. Sec. 135.11, pertaining to exemption from conflict of interest laws, shall apply to the City.

(C) R.C. Secs. 731.56 to 731.59, inclusive, shall not apply to the City, except as R.C. Sec. 731.59 is incorporated in part in Section 39.05 (I) of this chapter.

(D) Unless incorporated by reference or otherwise made applicable in this chapter, no other provision of the Revised Code of Ohio which is inconsistent or in conflict with this chapter shall apply to the City.

(Ord. 73-1988, passed 12-7-88)

§ 39.03 DEPOSITORIES.

(A) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall determine the amount of public moneys which shall be available in active deposits to:

(1) Provide the needed cash flow to pay checks issued and outstanding and other obligations, to provide for a reasonable surplus in addition to the amount needed to pay such amounts; and

(2) Maximize the interest received on public moneys of the City. Interest on active deposits shall be paid or credited by the City's designated eligible depositories at least quarterly and when funds are withdrawn, computing the time of payment from the date of deposit. All public moneys of the City not deposited in active deposits shall be invested pursuant to Section 39.05 of this chapter.

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ORDINANCE NO. 03-2024

(B) The Finance Committee of Council shall, in accordance with the Ohio Revised Code, by a writing filed with the Council, designate one or more eligible depositories as the depository or depositories of the City's active deposits. In making such designation the Finance Committee of Council shall consider the following:

- (1) The convenience of the location of the depository's offices; and
- (2) The rate or rates of interest, if any, which the depository will pay on the active deposits; and
- (3) Any other terms or conditions with respect to the depository's acceptance of the City's active deposits.

(C) Designation of the eligible depository or depositories for active deposits shall be subject to confirmation by Council.

(D) The designation of depositories for the City's active deposits shall not be limited by term. At any time as deemed necessary, Council and or Finance Committee may request applications from eligible depositories to be considered to hold active funds. At such time, a Request for Proposal shall be sent to the eligible depositories and due within 45 days from such time. Such request shall:

- (1) Provide an estimate of the maximum amount of such active deposits;
- (2) Request such depositories to apply in writing for all or part of the City's active deposits on or before a date and time specified in the notice; and
- (3) Request such depositories to state in their application the amount of such active deposits that will be accepted to offset bank account fees and charges; and
- (4) Include or request any other information to or from such depositories which the Finance Committee of Council deems relevant. The request for written applications or their receipt does not constitute a bidding procedure. Rather such request and application are intended to provide relevant information to the Finance Committee of Council for its designation pursuant to division (B) of this section and to provide notice to eligible depositories that the City will receive applications and proposals for its active deposits; and
- (5) The Mayor and/or City Administrator shall enter into a contract with such depositories for the appropriate period determined, but not limited to term, pursuant to division (D) of this section. Such contract shall establish the service charges and/or compensating balances the depository may make for its services, and other terms or conditions of the depository's acceptance of the City's active deposits.

(E) The limitations on the aggregate amounts of public moneys that may be on deposit with eligible depositories as set forth in the Uniform Depository Act shall apply under this chapter.

(Ord. 73-1988, passed 12-7-88; Am. Ord. 31-2002, passed 5-15-02; Ord. 12-2023, passed 3-1-2023)

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§ 39.04 SECURITY FOR REPAYMENT OF DEPOSITS.

(A) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, before making the initial deposit in a public depository pursuant to an award made under Section 39.03 or pursuant to an investment in a certificate of deposit under Section 39.05 (B)(7) shall require the institution designated as the depository to pledge to and deposit ~~with him~~, as security for the repayment of all public moneys to be deposited in the depository during the period of designation pursuant to the award, eligible securities of aggregate market value equal to the excess of the amount of public moneys to be at the time so deposited, over and above such portion or amount of such moneys as are at such time insured by the Federal Deposit Insurance Corporation or by any other agency or instrumentality of the Federal government or of the State of Ohio as may be approved by Council. The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner may require such institution to deposit with him surety company bonds or other insurance policies approved by Council which, when executed, shall be for an amount equal to such excess amount. In the case of any deposit other than the initial deposit made during the period of designation, the amount of the aggregate market value of securities required to be pledged and deposited, or of the surety company bonds required to be deposited or the other insurance coverage required, shall be equal to the difference between the amount of public moneys on deposit in such public depository plus the amount to be so deposited, minus such portion or amount of the aggregate as is at the time insured by the Federal Deposit Insurance Corporation or any other instrumentality of the Federal government or of the State of Ohio as may be approved by Council. Council may require additional eligible securities to be deposited to provide for any depreciation which may occur in the market value of any of the securities so deposited.

(B) The following securities shall be eligible for the purposes of this section:

(1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;

(2) Bonds, notes, debentures, or other obligations or securities issued by any Federal government agency, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;

(3) Bonds and other obligations of this state;

(4) Bonds and other obligations of any county, township, school district, municipal corporation, including the City, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of the principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivisions is pledged;

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(5) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(6) Obligations guaranteed as to principal and interest by the Ohio student loan commission.

(C) If the depository fails to pay over any part of the deposit made therein as provided by law, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall sell at public sale any of the bonds or other securities deposited ~~with him~~ pursuant to this section or R.C. Section 131.09. Thirty (30) days' notice of such sale shall be given in a newspaper of general circulation, on the City's website, or in any other manner designated by Council, -at the county seat of the county in which the office of the ~~Clerk of Council/Finance Director~~ municipality is located. Pursuant to division (C) of R.C. Section 135.18, when a sale of bonds or other securities has been so made and upon payment to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner of the purchase money, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers, and any surplus remaining after deducting the amount due the state or subdivision and expenses of sale shall be paid to the depository.

(D) An institution designated as a depository may, by written notice to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, designate a qualified trustee and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and the institution as a depository, as their respective rights to and interest in such securities under this section may appear and be asserted by written notice to or demand upon the trustee pursuant to division (D) of R.C. Section 135.18. In such case, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall accept the written receipt of the trustee describing the securities which have been deposited with the trustee by the depository, a copy of which shall also be delivered to the depository. Thereupon all such securities so deposited with the trustee are, pursuant to division (D) of R.C. Section 135.18, deemed to be pledged with the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and to be deposited ~~with him~~, for all the purposes of this section.

(E) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner may make provisions for the exchange and release of securities and the substitution of other eligible securities therefor except where the depository has deposited eligible securities with a trustee for safekeeping as provided in this section.

(F) When the depository has deposited eligible securities described in division (B)(1) of this section with a trustee for safekeeping, the depository may at any time substitute or exchange eligible securities described in division (B)(1) of this section having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from the City's Council or ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner of such substitution or exchange.

(G) When the depository has deposited eligible securities described in divisions (B)(2) to (6) of this section with a trustee for safekeeping, the depository may at any time substitute or exchange

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eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of the Council or the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner of any such substitution or exchange only if:

(1) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner has authorized the depository to make such substitution or exchange on a continuing basis during a specific period without prior approval of each substitution or exchange. Such authorization may be effected by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon such notice and upon the period of authorization stated therein and upon the period of designation stated therein; or

(2) No continuing authorization for substitution has been given by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, the depository notifies the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and the trustee of an intended substitution or exchange, and the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten (10) calendar days after the date appearing on the notice of proposed substitution. The notice to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and to the trustee shall be given in writing and delivered personally or by certified or registered mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner. In order for objections of the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner to be effective, receipt of the objections must be acknowledged in writing by the trustee; or

(3) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner gives written authorization for a substitution or exchange of specific securities.

(H) The depository shall notify the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner of any such substitution or exchange under division (G)(1) or (2) of this section. Upon request from the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, the trustee shall furnish a statement of the securities pledged against such public deposits.

(I) Any federal reserve bank or branch thereof located in this state, without compliance with R.C. Sections 1109.03, 1109.04, 1109.17 and 1109.18, and without becoming subject to R.C. Section 1109.15, or any other law of Ohio relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in R.C. Section 135.03 which holds a certificate of qualification issued by the superintendent of banks or any institution complying with R.C. Sections 1109.03, 1109.04, 1109.17 and 1109.18, is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section. Pursuant to R.C. Section 135.18, upon application to him in writing by any such institution, the Superintendent of Banks shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in Ohio and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within Ohio

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of such securities. If the Superintendent finds that the applicant has been so authorized and does have such vaults and supervision thereof, he shall, pursuant to R.C. Section 135.18, approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself.

(J) Notwithstanding the fact that a depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

(K) Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the depository and in no event shall be chargeable to the City or to the ~~Clerk of Council/Finance Director Finance Officer/Tax Commissioner~~ or to any officer of the City. Such charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in such securities of the City or of the ~~Clerk of Council/Finance Director Finance Officer/Tax Commissioner~~. The ~~Clerk of Council/Finance Director Finance Officer/Tax Commissioner~~ and ~~his~~ bondsmen or security shall be relieved from any liability to the City or to the depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

(Ord. 73-1988, passed 12-7-88)

§ 39.041 POOLING OF SECURITIES.

(A) In lieu of the pledging requirements prescribed in Section 39.04, a depository, with the consent of the ~~Clerk of Council/Finance Director Finance Officer/Tax Commissioner~~, may pledge a single pool of eligible securities to secure the repayment of public moneys deposited in the depository and not otherwise secured pursuant to law, provided that at all times the total value of the securities so pledged, based on the valuations prescribed in division (B) of this section, is at least equal to one hundred ten percent (110%) of the total amount of all public deposits to be secured by the pooled securities, including the portion of such deposits covered by any Federal deposit insurance. Each such depository shall carry in its accounting records at all times a general ledger or other appropriate account of the total amount of all public deposits to be secured by the pool, as determined at the opening of business each day, and the total value of securities pledged to secure such deposits.

(B) The following securities, at the specified valuations, shall be eligible as collateral for the purposes of division (A) of this section, provided no such securities pledged as collateral are at any time in default as to either principal or interest:

(1) Obligations of, or fully insured or fully guaranteed by, the United States or any Federal government agency: at face value;

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(2) Obligations partially insured or partially guaranteed by any Federal government agency: at face value;

(3) Obligations of, or fully guaranteed by, the Federal national mortgage association or the federal home loan mortgage corporation: at face value;

(4) Obligations of any state, county, municipal corporation or other legally constituted authority of any state or any instrumentality of any state, county, municipal corporation or other authority, which are secured as to the payment of principal and interest by the holding in escrow of obligations of the United States for which the full faith and credit of the United States is pledged: at face value;

(5) Obligations of the State of Ohio or any county or other legally constituted authority of the State of Ohio or any instrumentality of the State of Ohio or such county or other authority: at face value;

(6) Obligations of any other state: at ninety percent (90%) of face value;

(7) Obligations of any county, municipal corporation or other legally constituted authority of any other state or any instrumentality of such county, municipal corporation or other authority: at eighty percent (80%) of face value;

(8) Notes representing loans made to persons attending or planning to attend eligible institutions of education and to their parents, and insured or guaranteed by the United States or any agency, department or other instrumentality thereof, or guaranteed by the Ohio student loan commission pursuant to R.C. Sections 3351.05 to 3351.14: at face value;

(9) Any other obligations the ~~Clerk~~ Finance Officer/Tax Commissioner approves: at the percentage of face value he prescribes.

(C) The City shall have an undivided security interest in the pool of securities pledged by a depository pursuant to division (A) of this section in the proportion that the total amount of the City's public moneys secured by the pool bears to the total amount of public deposits so secured.

(D) A depository pledging pooled securities shall designate a qualified trustee and deposit with the trustee for safekeeping the eligible securities pledged pursuant to division (A) of this section. The depository shall give written notice of the qualified trustee to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner. The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository, a copy of which also shall be delivered to the depository.

(E) Any federal reserve bank or branch thereof located in the State of Ohio, without compliance with R.C. Sections 1109.03, 1109.04, 1109.17 and 1109.18, and without becoming subject to R.C. Section 1109.15 or any other law of the State of Ohio relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in division (A) of R.C. Section 135.03 or division (A) of R.C. Section 135.32 which holds a certificate of qualification issued by the Superintendent of Banks, or any institution complying with R.C. Sections 1109.03, 1109.04, 1109.17 and 1109.18 is qualified to act as trustee for the safekeeping of securities under this section, other than those

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belonging to itself or to an affiliate as defined in division (A) of R.C. Section 1101.01. Pursuant to R.C. Section 135.181, upon application to him in writing by any such institution, the Superintendent of Banks shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in Ohio and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within Ohio of such securities. If the Superintendent finds that the applicant has been so authorized and does have such vaults and supervision thereof, he shall, pursuant to R.C. Section 135.181, approve the application and issue a certificate to that effect, the original of any certified copy of which shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself.

(F) The depository at any time may substitute, exchange or release eligible securities deposited with a qualified trustee pursuant to this section, provided that such substitution, exchange or release does not reduce the total value of the securities, based on the valuations prescribed in division (B) of this section, to an amount that is less than one hundred ten percent (110%) of the total amount of public deposits as determined pursuant to division (A) of this section.

(G) Notwithstanding the fact that a depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value or face value of any securities deposited with the trustee by a depository. This applies in all situations including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (H) of this section in which the trustee is required to determine face and market value.

(H) If the depository fails to pay over any part of the public moneys made therein as provided by law and secured pursuant to division (A) of this section, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall give written notice of this failure to the qualified trustee holding the pool of securities pledged against public moneys deposited in the depository, and at the same time shall send a copy of this notice to the depository. Upon receipt of such notice the trustee shall transfer to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner for public sale such of the pooled securities as may be necessary to produce an amount equal to the deposits made by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, less the portion of such deposits covered by any federal deposit insurance, plus any accrued interest due on such deposits. The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall sell at public sale any of the bonds or other securities so transferred. Thirty (30) days' notice of such sale shall be given in a newspaper of general circulation in the City. When a sale of bonds or other securities has been so made and upon payment to the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner of the purchase money, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the City and expenses of sale shall be paid to the depository.

(I) Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the depository and in no event shall be chargeable to the City or ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner. Such charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the

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rights to and interests in such securities of the City or ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner. The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and his bondsmen or surety shall be relieved from any liability to the City or to the depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

(J) In lieu of placing its unqualified endorsement on each security, a depository pledging securities pursuant to division (A) of this section that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the trustee prescribes.

(K) Upon request of the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, a depository shall report the amount of public moneys deposited by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner and secured pursuant to division (A) of this section, and the total value, based on the valuations prescribed in division (B) of this section, of the pool of securities pledged to secure public deposits held by the depository, including those deposited by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner. Upon request of the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, a qualified trustee shall report such total value of the pool of securities deposited with it by the depository and shall provide an itemized list of the securities in the pool. These reports shall be made as of the date the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner specifies.

(Ord. 73-1988, passed 12-7-88)

§ 39.05 INVESTMENTS.

(A) All public moneys of the City not ~~deposited in~~ held as active deposits or kept by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner as a cash reserve as may be prescribed by Council, shall be invested by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner pursuant to this section, ~~and investments shall not be limited to such moneys which will not be needed for a period of ninety (90) days, however, any~~ Any such funds ~~as Council by resolution declares are~~ not needed for any municipal purpose for more than ninety (90) days shall be invested.

(B) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner may invest in any ~~of the following~~ classifications of obligations investment, which are ~~hereby determined to be eligible for investment; outlined in R.C. 135.14.~~

~~(1) Bonds, notes, or other obligations of or guaranteed by the United States, or those for which the faith of the United States is pledged for the payment of principal and interest thereon;~~

~~—(2) Bonds, notes, debentures or other obligations or securities issued by any federal government agency, or the export-import bank of Washington;~~

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~~—(3) The Clerk of Council/Finance Director may enter into a repurchase agreement with any eligible institution mentioned in R.C. Section 135.03 and confirmed by Council, under the terms of which agreement the Clerk of Council/Finance Director purchases for the City, and such institution agrees unconditionally to repurchase any of the securities listed in divisions (B)(1) or (2) of this section that will mature or are redeemable within five (5) years from the date of purchase;~~

~~—(4) Certificates of deposit of eligible depositories, which may provide (and if so, shall be shown on its face) that the amount of such deposit is payable upon written notice a specified period before the date of the repayment maturity;~~

~~—(5) Insured deposit accounts in eligible depositories paying interest at a rate greater than the interest rate paid on the City's active deposits, and~~

~~—(6) StarOhio, an investment pool managed by the Treasurer of the state.~~

(C) Where the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner invests in any of the classifications of ~~obligations~~ investment set forth in Section 39.05 (B) and the investment involves a depository designated by the Finance Committee of Council, pursuant to Section 39.03 (B), the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall invest in the eligible depository offering the highest rate of return available. ~~among all eligible depositories. If the highest rate of return for the investment is offered by more than one of the eligible depositories designated under Section 39.03, the Clerk of Council/Finance Director shall invest available public funds equally among each of the eligible depositories offering the highest rate of return, except if one of the depositories which is offering the highest rate is the present depository for the money being offered, then that money shall remain with that depository.~~

(D) Designation of ~~those~~ eligible depositories to be used by the City for investments shall be subject to confirmation by Council as set forth in Section 39.03 (B).

(E) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner ~~may sell any securities, obligations or certificates of deposit or close any accounts held as~~ investments mentioned in division (B) of this section for cash and for a sum not less than the ~~if~~ current market price.

(F) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, the Mayor, the Law Director and ~~the~~ members of Council or any other officer or employee of the City, shall not be held accountable or personally liable for any loss ~~occasioned~~ incurred by the sale of investments. ~~securities, obligations or certificates of deposit or by the closing of insured deposit accounts at prices lower than their cost or balance.~~ Any loss or expense in making such sales or closings shall be payable as other expenses of the City.

(G) Investments authorized by division (B) of this section shall not be made at a price in excess of the current market price.

(H) The members of Council, the Mayor, the Law Director and the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner or any other officer or employee of the City, shall not be personally liable for or with respect to the purchase of investments. ~~securities, obligations or~~

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~~certificates of deposit or the deposit of public moneys in insured deposit accounts~~ authorized as investments pursuant to division (B) of this section; and the members of Council, the Mayor and the Law Director or any other officer or employee of the City shall not be personally liable for any unauthorized investment by the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner.

(~~H~~ I) Any ~~securities, obligations or certificates of deposit~~ investment purchased under the authority of this section are issuable to the City. If any such ~~securities, obligations or certificate of deposit~~ investments are registerable either as to principal or interest, or both, then such securities shall be registered in the name of the City ~~as such~~.

(~~I~~ J) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner is responsible for the safekeeping of all ~~securities, obligations or certificates of deposit~~ investments acquired by ~~him~~ under this section. Any of such ~~securities, obligations or certificates of deposit~~ investment may be deposited for safekeeping with a qualified trustee as provided in R.C. Section 135.18, except the delivery of securities acquired under a repurchase agreement shall be made to a qualified trustee. If ~~securities, obligations or certificates of deposit~~ investments are not deposited with a qualified trustee, they shall be in the custody of the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, and shall be kept by him in a safe deposit box or vault belonging to an eligible depository, and such safe deposit box or vault shall be opened only upon a warrant or order of the ~~Clerk of Council/Finance Director or a person duly authorized as the Acting Clerk of Council/Finance Director~~ in the presence of one or more of the Clerk of Council/Finance Director, Law Director, City Administrator or Mayor or persons duly authorized as Acting Clerk of Council/Finance Director, Acting Law Director, Acting City Administrator or Acting Mayor. The warrant or order to open such safety deposit box or vault shall direct the deposit or removal of such securities, obligations or certificates of deposit, clipping of coupons or other official business reason for opening the box or vault. A report of what is placed in, removed from or other official business conducted shall, on the same day of the opening of the box or vault, be signed by the officer witnessing such opening and the Clerk of Council/Finance Director and such report shall be retained by the Clerk of Council/Finance Director. Interest earned on any investments, including certificates of deposit, authorized by this section shall be collected by the Clerk of Council/Finance Director and credited by him to the proper fund of the City as required by law.

(~~J~~) Upon the expiration of the term of office of the Clerk of Council/Finance Director or in the event of a vacancy in the office of the Clerk of Council/Finance Director by reason of death, resignation, removal from office, or otherwise, the Clerk of Council/Finance Director or his legal representative shall transfer and deliver to his successor all securities, obligations and certificates of deposit held by him. For the securities, obligations and certificates of deposit so transferred and delivered, such Clerk of Council/Finance Director shall be credited with and his successor shall be charged with the amount of money invested in such securities, obligations and certificates of deposit.

(K) Whenever ~~securities, obligations or certificates of deposit~~ investments acquired under this section mature and become due and payable, the ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall present them for payment according to their tenor, and shall

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collect the moneys payable to the City thereon. The moneys so collected shall be treated as public moneys subject to the provisions of this chapter.

(L) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner shall maintain accounts in which ~~he shall make~~ appropriate entries of all transactions relating to the investment of ~~treasury funds~~ are recorded. ~~The Clerk of Council/Finance Director shall keep a record of the number and maturity of interest coupons in which the City has invested.~~

(M) ~~On and after January 1, 1984, the~~ The Clerk of Council/Finance Director Finance Officer/Tax Commissioner; ~~upon request of the Mayor or the Council~~, shall provide periodic reports to the Mayor, City Council and Administration, ~~in such detail as required by the Council or the Mayor~~, of all investments purchased, sold and held.

(Ord. 73-1988, passed 12-7-88; Am. Ord. 77-1991, passed 12-4-91)

§ 39.06 MISCELLANEOUS PROVISIONS.

(A) The ~~Clerk of Council/Finance Director~~ Finance Officer/Tax Commissioner, the Mayor, the Law Director, members of Council or any other officer or employee of the City, and their bondsmen or sureties shall be relieved from any liability for the loss of any public moneys deposited or invested pursuant to and in compliance with this chapter, including, but not limited to, losses occasioned by the failure of any depository.

(B) R.C. Section 731.55 shall be applicable to the City and the insurance authorized by such section may be procured by the Mayor and the costs of such insurance shall be paid by the City by ordinance adopted by Council.

(Ord. 73-1988, passed 12-7-88)

§ 39.07 SPECIAL FUNDS.

The city may create other special funds as provided by Ohio law or as adopted by ordinance of Council.

ORDINANCE NO. 04-2024

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, OHIO

WHEREAS, the Ohio Department of Natural Resources (“ODNR”), at the request of the Federal Emergency Management Agency (“FEMA”), has reviewed and recommended revisions to FEMA’s Model Regulations; and

WHEREAS, ODNR, as a representative of FEMA, has requested the City of Springdale (“City”) amend Chapter 154 of the Code of Ordinance to keep flood regulations up to date and coordinated with FEMA’s Model Regulations; and

WHEREAS, the City wishes to comply with the ODNR recommendation and FEMA regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, _____ members elected thereto concurring:

Section 1. Chapter 154 of the Code of Ordinances of the City of Springdale shall be amended as provided for in the attached Exhibit A which is incorporated herein by reference. All other provisions contained in Chapter 154 of the Code of Ordinances of the City of Springdale not specifically revised in the attached Exhibit A shall remain in full force and effect.

Section 2. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall take effect on the earliest date allowed by law.

Passed this _____ day of _____, 2024.

President of Council

Attest:

Clerk of Council

Approved:

Mayor

Date

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CHAPTER 154: FLOOD CONTROL

Section

General Provisions

- 154.01 Findings of fact
- 154.02 Statement of purpose
- 154.03 Method of reducing flood loss
- 154.04 Lands to which these regulations apply
- 154.05 Basis for establishing the areas of special flood hazard
- 154.06 Abrogation and greater restrictions
- 154.07 Interpretation
- 154.08 Warning and disclaimer of liability
- 154.09 Severability
- 154.10 Definitions

Administration

- 154.15 Administration
- 154.16 Floodplain Development Permits
- 154.17 Map maintenance activities
- 154.18 Data use and flood map interpretation
- 154.19 Substantial damage determinations
- 154.20 Use and development standards for flood hazard reduction
- 154.21 Assurance of flood carrying capacity
- 154.22 Appeals and variances
- 154.23 Enforcement
- 154.24 References
- 154.99 Penalty

GENERAL PROVISIONS

§ 154.01 FINDINGS OF FACT.

The City of Springdale has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(Ord. 18-2004, passed 5-5-04)

§ 154.02 STATEMENT OF PURPOSE.

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It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (G) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (H) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (I) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (J) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (K) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (L) Meet community participation requirements of the National Flood Insurance Program.

(Ord. 18-2004, passed 5-5-04)

§ 154.03 METHODS OF REDUCING FLOOD LOSS.

In order to accomplish its purposes, these regulations include methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (D) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 18-2004, passed 5-5-04)

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§ 154.04 LANDS TO WHICH THESE REGULATIONS APPLY.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Springdale as identified in § 154.05, including any additional areas of special flood hazard annexed by city.

(Ord. 18-2004, passed 5-5-04)

§ 154.05 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) For the purposes of these regulations, the following studies and/or maps are adopted:

(1) The "Flood Insurance Study, Hamilton County, Ohio and Incorporated Areas" with the accompanying Flood Insurance Rate Maps dated May 17, 2004 and any revisions thereto. The Flood Insurance Rate Maps for Hamilton County, Ohio and Incorporated Areas dated February 17, 2010 and the Flood Insurance Study for Hamilton County, Ohio and Incorporated areas dated February 16, 2012

(2) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Springdale as required by § 154.20(C) Subdivisions and Large Scale Other New Developments.

(B) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the City of Springdale Municipal Building, 11700 Springfield Pike, Springdale, Ohio 45246.

(Ord. 18-2004, passed 5-5-04)

§ 154.06 ABROGATION AND GREATER RESTRICTIONS.

These regulations are not intended to repeal any existing ordinances including land development regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not intend to impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations. These regulations are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 18-2004, passed 5-5-04; Am. Ord. 6-2011, passed 2-2-11)

§ 154.07 INTERPRETATION.

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and

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(C) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or federal law, such state or federal law shall take precedence over these regulations.

(Ord. 18-2004, passed 5-5-04)

§ 154.08 WARNING AND DISCLAIMER OF LIABILITY.

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

(Ord. 18-2004, passed 5-5-04)

§ 154.09 SEVERABILITY.

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

(Ord. 18-2004, passed 5-5-04)

§ 154.10 DEFINITIONS.

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

ACCESSORY STRUCTURE. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

APPEAL. A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or 100-year flood.

BASE (100-YEAR) FLOOD ELEVATION (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

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DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ENCLOSURE BELOW THE LOWEST FLOOR. See LOWEST FLOOR.

EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The agency with the overall responsibility for administering the National Flood Insurance Program.

FILL. A deposit of earth material placed by artificial means.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

FLOOD INSURANCE RISK ZONES. Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A: Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.

Zone A1-30 and AE: Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

Zone AO: Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH: Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and X (unshaded): Areas determined to be outside the 500-year floodplain.

FLOOD INSURANCE STUDY (FIS). The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries (sometimes shown

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on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

FLOODPROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOD PROTECTION ELEVATION. The Flood Protection Elevation, or FPE, is the base flood elevation plus one foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

FLOODWAY. A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than 0 feet 1-foot at any point within the community. The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

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

HISTORIC STRUCTURE. Any structure that is:

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

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS. An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

LETTER OF MAP CHANGE (LOMC). A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

LETTER OF MAP AMENDMENT (LOMA). A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA

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amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

LETTER OF MAP REVISION (LOMR). A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the initial effective date of the City of Springdale's FIRM, dated December 5, 1990, and includes any subsequent improvements to such structures. Structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City of Springdale and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM December 5, 1990 or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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PERSON. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the R.C. § 111.15 (A)(2) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

RECREATIONAL VEHICLE. A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGISTERED PROFESSIONAL ARCHITECT. A person registered to engage in the practice of architecture under the provisions of R.C. §§ 4703.01 to 4703.19.

REGISTERED PROFESSIONAL ENGINEER. A person registered as a professional engineer under R.C. Chapter 4733.

REGISTERED PROFESSIONAL SURVEYOR. A person registered as a professional surveyor under R.C. Chapter 4733.

SPECIAL FLOOD HAZARD AREA. Also known as AREAS OF SPECIAL FLOOD HAZARD, it is the land in the floodplain subject to a 1% or greater chance of flooding in any given year. SPECIAL FLOOD HAZARD AREAS are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, and AE. SPECIAL FLOOD HAZARD AREAS may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

STRUCTURE. A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

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SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

- (1) Any improvement to a structure which is considered "new construction";
- (2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE. A grant of relief from the standards of these regulations consistent with the variance conditions herein.

VIOLATION. The failure of a structure or other development to be fully compliant with these regulations.

(Ord. 18-2004, passed 5-5-04)

ADMINISTRATION

§ 154.15 ADMINISTRATION.

(A) Designation of the Floodplain Administrator. The Mayor through the appropriate city official is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(B) Duties and responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation

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certificates, **floodproofing certificates**, variances, and records of enforcement actions taken for violations of these regulations.

(6) Enforce the provisions of these regulations.

(7) Provide information, testimony, or other evidence as needed during variance hearings.

(8) Coordinate map maintenance activities and FEMA follow-up.

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

(Ord. 18-2004, passed 5-5-04)

§ 154.16 FLOODPLAIN DEVELOPMENT PERMITS.

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in § 154.05, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

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

(1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(2) Elevation of the existing, natural ground where structures are proposed.

(3) Elevation of the lowest floor, including basement, of all proposed structures.

(4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.

(5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

(a) Floodproofing certification for non-residential floodproofed structure as required in § 154.20(E).

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(b) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of § 154.20(D)(5) are designed to automatically equalize hydrostatic flood forces.

(c) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in § 154.21(C).

(d) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by § 154.21(B).

(e) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by § 154.21(A).

(f) Generation of base flood elevation(s) for subdivision and **large-scale Other New** developments as required by § 154.20(C).

(6) Applicable fees for a floodplain development permit, including the processing base fee, flood control fees, and applicable penalty fees, as set forth in § 152.20(G) shall be paid before the permit authorized by Chapter 154 herein is issued.

(B) Review and approval of a floodplain development permit application.

(1) Review.

(a) After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in § 154.16(A) has been received by the Floodplain Administrator.

(b) The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(2) Approval. Within 30 days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one year. A floodplain development permit shall expire one year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

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

(D) Post-construction certifications required. The following as-built certifications are required after a floodplain development permit has been issued:

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(1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(2) For all development activities subject to the standards of § 154.17(A), a Letter of Map Revision.

(3) For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

(E) Revoking a floodplain development permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Board of Housing, Building and Fire Appeals in accordance with § 154.22 of these regulations.

(F) Exemption from filing a development permit.

~~— (1) An application for a floodplain development permit shall not be required for:~~

~~— (a) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.~~

~~— (b) Major utility facilities permitted by the Ohio Power Siting Board under R.C. § 4906.~~

~~— (c) Hazardous waste disposal facilities permitted by the hazardous waste siting board under R.C. § 3734.~~

~~— (d) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.~~

~~— (2) Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.~~

An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2500.

(G) State and Federal Development

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

(2) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local

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floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:

(a) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.

(b) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.

(c) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.

(3) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management

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

(Ord. 18-2004, passed 5-5-04) Penalty, see § 154.99

§ 154.17 MAP MAINTENANCE ACTIVITIES.

To meet national flood insurance program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Springdale flood maps, studies and other data identified in § 154.05 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(A) Requirement to submit new technical data.

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

(a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

(b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

(c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

(d) Subdivision or large scale Other New development proposals requiring the establishment of base flood elevations in accordance with § 154.20(C).

(2) It is the responsibility of the applicant to have technical data, required in accordance with § 154.17(A), prepared in a format required for a conditional letter of map revision or letter of map revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(3) The Floodplain Administrator shall require a conditional letter of map revisions prior to the issuance of a floodplain development permit for:

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(a) Proposed floodway encroachments that increase the base flood elevation; and

(b) Proposed development which increases the base flood elevation by **any amount in more than one foot in riverine** in areas where FEMA has provided base flood elevations but no floodway.

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to § 154.17(A)(1).

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

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

(Ord. 18-2004, passed 5-5-04)

§ 154.18 DATA USE AND FLOOD MAP INTERPRETATION.

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(A) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

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

~~(C) When preliminary flood insurance rate maps and/or flood insurance study have been provided by FEMA:~~

~~(1) Upon the issuance of a letter of final determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.~~

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— (2) Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations of floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(DC) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 154.22, Appeals and Variances.

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

(Ord. 18-2004, passed 5-5-04)

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

(1) Zone A:

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

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

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

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

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

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

(B) If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the

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encroachment performance standard of Section 4.9(B) since the data in the draft or preliminary FIS represents the best data available.

(3) Zone B, C, and X:

(A) Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, or AO. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.

§ 154.19 SUBSTANTIAL DAMAGE DETERMINATIONS.

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

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

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

(Ord. 18-2004, passed 5-5-04)

§ 154.20 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard areas as established in §§ 154.05 or 154.18(A) and (E):

(A) Use regulations.

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

~~— (2) Prohibited uses.~~

~~— (a) Private water supply systems in all special flood hazard areas identified by FEMA, permitted under R.C. § 3701.~~

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~~(b) Infectious waste treatment facilities in all special flood hazard areas, permitted under R.C. § 3734.~~

(B) Water and wastewater systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(C) Subdivisions and ~~large developments~~ **Other New Developments.**

(1) All ~~subdivision proposals~~ **proposed subdivisions and new developments** shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;

(2) All ~~subdivision proposals~~ **proposed subdivisions and new developments** shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All ~~subdivision proposals~~ **proposed subdivisions and new developments** shall have adequate drainage provided to reduce exposure to flood damage; and

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less.

(5) The applicant shall meet the requirement to submit technical data to FEMA in § 154.17(A)(1)(d) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by § 154.20(C)(4).

(D) Residential structures. **These requirements apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in § 154.18 (E).**

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (§ 154.20(D)(1)) and construction materials resistant to flood damage (§ 154.20(D)(2)) are satisfied.

(2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

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(3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

(5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:

(a) Be used only for the parking of vehicles, building access, or storage; and

(b) Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

(c) Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of § 154.20(D).

(E) Nonresidential structures. The requirements of 154.20(E) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in § 154.18 (F).

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of § 154.20(D)(1) - (3), (5) and (6).

(2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

(a) Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

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(c) Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Floodproofing Certificate, that the design and methods of construction are in accordance with § 154.20(E)(2)(a) and (b).

(F) Accessory structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards. Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:

- (1) They shall not be used for human habitation;
- (2) They shall be constructed of flood resistant materials;
- (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of § 154.20(D)(5)(c);

(G) Recreational Vehicles. Recreational vehicles on sites within zones A, A1-A30, AE, AO, or AH must meet at least one of the following standards:

(1) They shall not be located on sites in special flood hazard areas for more than 180 days, or

(2) They must be fully licensed and ready for highway use, or

(3) They must be placed on the site pursuant to a floodplain development permit issued under Sections 154.16 and 154.16(A), and meet all standards of Section 154.20.

(GH) Above ground gas or liquid storage tanks. Within Zone A, A1-A30, AE, AO, and AH all new or substantially improved. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(Ord. 18-2004, passed 5-5-04) Penalty, see § 154.99

§ 154.21 ASSURANCE OF FLOOD CARRYING CAPACITY.

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

(A) Development in floodways.

(1) In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

(2) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

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- (a) Meet the requirements to submit technical data in § 154.17(A);
- (b) An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
- (c) Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
- (d) Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
- (e) Concurrence of the Mayor of the City of Springdale and the Chief Executive Officer of any other communities impacted by the proposed actions.

(B) Development in riverine areas with base flood elevations but no floodways.

(1) In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation **more than 1.0 (one) foot** at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

(2) Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing **more than one foot** an increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

(a) An evaluation of alternatives which would result in **an increase of one foot or less no increase** of the base flood elevation and an explanation why these alternatives are not feasible;

(b) Section 154.21(A)(2)(a), (c), (d) and (e).

(C) Alterations of a watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the "USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique" or other applicable publication available from a federal, state, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

(1) The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

(2) Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or

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relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

(3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Springdale specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

(4) The applicant shall meet the requirements to submit technical data in § 154.17(A)(1)(c) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts. (Ord. 18-2004, passed 5-5-04)

§ 154.22 APPEALS AND VARIANCES.

(A) Appeals Board.

(1) The Board of Housing, Building and Fire Appeals as established by Council shall hear and decide appeals and requests for variances from the requirements of this chapter and that to that extent the power of such Board as provided in § 36.31 are expanded.

(2) The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Mayor through the appropriate city official in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the Board or any taxpayer, may appeal such decision to the Hamilton County Court of Common Pleas, as provided in R.C. Chapter 2506.

(B) Board action.

(1) In passing upon such applications, the Board shall consider and make findings of fact on all technical evaluations, all relevant factors, standards specified in other sections of the chapter, and the following factors:

(a) The danger that materials may be swept onto other lands to the injury of others.

(b) The danger to life and property due to flooding or erosion damage.

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(d) The importance of the services provided by the proposed facility to the community.

(e) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(f) The necessity to the facility of a waterfront location, where applicable.

(g) The compatibility of the proposed use with existing and anticipated development.

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles.

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(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(2) Variances shall only be issued upon:

(a) A showing of good and sufficient cause.

(b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

(c) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

(d) A determination that the structure or other development is protected by methods to minimize flood damages.

(e) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

(3) Other conditions for variances.

(a) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(b) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in § 154.22(B)(1) (a) to (k) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 18-2004, passed 5-5-04)

§ 154.23 ENFORCEMENT.

(A) Compliance required.

(1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the

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jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in § 154.16(F).

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with § 154.99.

(3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with § 154.99.

(B) Civil remedies. The City of Springdale, the Mayor on behalf of the City of Springdale or any officer designated by the Mayor on behalf of the City of Springdale may, in addition to the criminal remedies provided in § 154.99, file suit for injunctive relief through the Court of Common Pleas of Hamilton County, Ohio.

(Ord. 18-2004, passed 5-5-04)

§ 154.24 REFERENCES.

Mobile homes, mobile home parks, and mobile home subdivisions are not permitted in the city. Any reference in this chapter to mobile homes, mobile home parks, and mobile home subdivisions are for purposes of this chapter of the code only and do not imply authorization. Their inclusion is solely for the purpose of establishing an all-inclusive flood regulation section.

(Ord. 18-2004, passed 5-5-04)

§ 154.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a minor misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements (including violations of conditions of and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the city. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy violations.

(Ord. 18-2004, passed 5-5-04)

ORDINANCE NO. 05-2024

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE OF OHIO DEPARTMENT OF TRANSPORTATION FOR THE USE OF JOBS AND COMMERCE FUNDS TO BE APPLIED TO THE COST OF THE NORTHLAND BOULEVARD RECONSTRUCTION PROJECT AND DECLARING AN EMERGENCY

WHEREAS, the City of Springdale (the “City”) is planning a project to replace deteriorated concrete pavement, replace the mast arm signal at Tri-County Parkway, add sidewalks to fill in existing gaps, improve roadway drainage, and complete access management improvements along Northland Boulevard (the “Project”); and

WHEREAS, the total cost of the Project is estimated to exceed 8 million dollars; and

WHEREAS, in furtherance of the Project, the City applied for and received a grant from the ODOT Jobs & Commerce Economic Development Program in the amount of \$175,000 that the City seeks to transfer to the Ohio Department of Transportation District 8 to apply toward the cost of the Project.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, Ohio, _____ members elected thereto concurring:

Section 1. That the City authorizes the City Administrator to execute a Memorandum of Understanding with the Ohio Department of Transportation (“ODOT”) to allow for the ODOT Jobs & Commerce Economic Development Program in the amount of \$175,000 to be transferred to ODOT District 8 and applied toward the City’s costs associated with the Northland Boulevard improvement project (the “Agreement”). A copy of the Agreement is attached as Exhibit A and incorporated herein by reference.

Section 2. That this Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. That this Ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II(D)(3)(d) of the Charter, be effective immediately. The reason for said declaration of emergency is the need to expedite the execution of the Agreement for the funding in accordance with ODOT’s schedule for the Project.

Section 4. This Ordinance shall take effect on the earliest date allowed by law.

Passed this _____ day of February, 2024.

President of Council

Attest:

Clerk of Council

Approved:

Mayor

Date



**MEMORANDUM OF UNDERSTANDING (MOU) FOR
ODOT DISTRICT USE OF JOBS & COMMERCE FUNDS**

Project Information			
Project:	HAM CR 614 1.39 Northland Blvd	PID:	114475
Total Eligible Costs:	\$8,058,206.27	Percentage:	3%
Phase:	Construction	Maximum Grant Funds:	\$175,000
Scope of Work: Replace deteriorated concrete pavement, replace mast arm signal at Tri-County Parkway, add sidewalks to fill existing gaps, improve roadway drainage, and access management improvements.			
Grantee Information			
Grantee:	City of Springdale	Name and Title:	John J. Jones, City Administrator
Address:	11700 Springfield Pike		
City:	Springdale	Zip:	45246
Email:	JJones@springdale.org	Phone:	513-346-5700
Ohio Department of Transportation District Information			
ODOT District:	8	Deputy Director:	Tammy Campbell, P.E.
Address:	505 South SR 741		
City:	Lebanon	Zip:	45036
Email:	Tammy.Campbell@dot.ohio.gov	Phone:	513-933-6694

THIS MOU is made by and between the State of Ohio, Department of Transportation (“ODOT”), 1980 W. Broad Street, Columbus, Ohio 43223 and the Grantee listed above to authorize ODOT to provide financial assistance for costs associated with public roadwork improvements for the Project listed above (hereinafter referred to as the PROJECT).

The Grantee having been awarded a grant from the ODOT Jobs & Commerce Economic Development Program (SAC 4JC7) will permit ODOT to transfer the award amount to the ODOT District constructing the ODOT-let project listed above. The Grantee is relinquishing its interest in the award.

The Grantee will be released from any aspect of this PROJECT, including but not limited to: environmental responsibilities, permit requirements, right of way or utility reimbursement, construction contract administration and any federal or state compliance regulations.

The parties hereto have caused this MOU to be duly executed as of the day and year last written below.

**GRANTEE
OR AUTHORIZED REPRESENTATIVE**

**STATE OF OHIO
OHIO DEPARTMENT OF TRANSPORTATION**

Signature: _____

By: _____
Jack Marchbanks, Ph.D Director

Print: _____

Title: _____

ORDINANCE NO. 06-2024

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ENABLE INJECTIONS, INC. RELATED TO A JOB RETENTION AND CREATION INCENTIVE AGREEMENT AND DECLARING AN EMERGENCY

WHEREAS, Enable Injections, Inc., has requested assistance from the City of Springdale (the “City”) in the form of an incentive to encourage job retention and creation; and

WHEREAS, the City is willing to provide the requested local incentive pursuant to the terms of a forgivable line of credit provided for in the agreement between Enable Injections, Inc. and the City (the “Agreement”); and

WHEREAS, the City believes entering into the Agreement will bring economic benefits to the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, Ohio, _____ members elected thereto concurring:

Section 1. That the Mayor is hereby authorized to enter into an agreement with Enable Injections, Inc. related to local job retention and creation substantially in the form attached as Exhibit A and incorporated herein by reference.

Section 2. That the Finance Office/Tax Commissioner is hereby authorized to make payments to Enable Injections, Inc. pursuant to the terms of the Agreement.

Section 3. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and pursuant to Article II, Section 6 of the Charter shall be effective immediately upon its passage. The reason for said declaration of emergency is the need to execute the agreement so the City can begin to benefit from its terms at the earliest possible date.

Section 5. This Ordinance shall take effect on the earliest date allowed by law.

Passed this _____ day of February, 2024.

Attest:

Clerk of Council

President of Council

Approved:

Mayor

Date

AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of February, 2024 by and between the City of Springdale, a charter city organized and existing under the laws of the State of Ohio, (the “City”), and Enable Injections, Inc., a Delaware Corporation, (the “Company”).

WHEREAS, the Company desires to occupy a facility located at 1110 Strategic Parkway, Springdale, Ohio 45246 within the City of Springdale (the “Springdale Facility”); and

WHEREAS, the Company expects to relocate operations to Springdale and create and maintain jobs at the Springdale Facility from the date hereof through 2037; and

WHEREAS, Article VIII, Section 13 of the Ohio Constitution grants municipalities the authority to give financial assistance to private industry in order to create new employment within this state; and

WHEREAS, the Company has requested that the City provide certain financial assistance to the Company to enable it to create and retain new jobs in Springdale and specifically at the Springdale Facility; and

WHEREAS, the Company has provided to the City certain information regarding the Company, including employment and payroll information, and such other information as may have been requested by the City to facilitate its review and approval of the request (which collective information is hereafter referred to as the “Application”); and

WHEREAS, the City believes that the provision of financial assistance to the Company as contemplated under this Agreement will have a significant direct impact within the Springdale community through the relocation, creation, and maintenance of job opportunities within the City and strengthening the economic welfare of the City.

NOW, THEREFORE, in consideration of mutual promises and agreements hereinafter set forth, the parties agree as follows:

1. This Agreement sets forth the details upon which the City will provide to the Company a municipal financial incentive (“Incentive”) to enable the Company to relocate, create, and maintain employment opportunities and positions (“Jobs”) within the City. The Incentive is based on the Company’s estimate of payroll to be relocated, created and maintained at the Springdale Facility and the earnings tax revenue to be generated from such new payroll in the City. New payroll may be derived from employees of the Company or any affiliated entity. Subject to the terms and conditions of this Agreement, the City will distribute the Incentive to the Company in the manner set forth in this Agreement.

2. Company hereby represents to the City that the Application is true and correct in all material respects and that all estimates of the payroll to be relocated, created, and maintained as set forth in Exhibit 1 are based upon commercially reasonable projections. In the event of any change to the Application, or any information comprising the Application, the Company shall promptly advise the City of such change.

If requested, the Company shall provide to the City appropriate corporate resolutions (if a corporation), written authorization of all members/partners (if a limited liability company/partnership), or such other documentation as may be necessary to evidence that the Company has authorized the terms of this Agreement.

3. Subject to compliance by the Company with the terms and conditions of this Agreement, the City shall make available to the Company a line-of-credit as shown in Column E of Exhibit 1 attached hereto. The Company shall have the right to make the annual line-of-credit draws (hereinafter referred to as the “Line-of-Credit Draw”) in the annual amounts shown in Column E of Exhibit 1 attached hereto. The first draw shall be payable on or before the first business day of July 2026, and on the 1st business day of July of each calendar year thereafter until 2037, except in those Project Years where “No Draw This Year” is indicated in Column E of Exhibit 1, which is the final Line-of-Credit Draw to which the Company may be entitled under this Agreement. The Company shall be eligible to make each annual draw only subject to the terms of this Agreement. The total line-of-credit made available may be greater or less than the total shown in Column E of Exhibit 1 based on company performance during the term of the Agreement, as provided in Section 4 below.
4. The Line-of-Credit Draw is made available by the City in reliance on the Company relocating, creating and maintaining jobs within the City and generating income and payroll resulting in increased income tax revenue for the City. The “Annual Payroll” anticipated to be generated at the Springdale Facility for years 2025 through 2037, is defined as the “Total Payroll” as set forth in Column A for Agreement Year 1, or as “Net Payroll” as set forth in Column C for all other Agreement Years), of Exhibit 1, attached hereto and incorporated herein by reference. For each year that the Company satisfies the Annual Payroll, the Company shall be eligible to make the Line-of-Credit Draw as provided in Section 3 hereof. The City shall forgive each installment of the Line-of-Credit Draw simultaneously with the issuance of each annual installment of the Line-of-Credit Draw.

The Company must achieve a minimum Annual Payroll of \$8,436,000 for each calendar year to be eligible to receive the minimum Line-of-Credit Draw of \$101,232 (Column E of Exhibit 1). During the term of the agreement, the Line-of-Credit Draw received will correlate to the Annual Payroll achieved by the Company during any calendar year. The City will pay the Company based on the amount achieved, regardless of what year in which it is achieved. If the Company does not

meet the above-mentioned minimum Annual Payroll in any given year, the Company will not be eligible to receive the Line-of-Credit Draw for that year.

Satisfaction of the Annual Payroll shall be determined on an annual basis as of December 31 of each year, beginning with December 31, 2025. If the City determines that the Company has met the minimum Annual Payroll, the City shall disburse and simultaneously forgive the Line-of-Credit Draw on or before the first business day of July of the following year, provided the information requested in Paragraph 5 below has been received by the City.

Employees in Ohio have the ability to file a tax refund seeking a credit or partial credit for work they performed outside the City for which City taxes were withheld by the Company and which they believe was not subject to the City's income taxing authority. These credits or partial credits reduce the actual Total Payroll for the Company in any three subsequent Project Year period. As such, starting in Project Year 2, the City shall review all credits or partial credits awarded to Employees of the Company during the prior Project Year period to determine the actual Annual Payroll of the Company under this Agreement for that year. The first review in Project Year 2 shall be for employee refunds filed for Project Year 1. Any reduction in the Total Payroll as a result of employees of the Company receiving credits or partial credits shall result in the Company's actual Total Payroll for the current year being reduced by that credited amount and subtracted from the Company's Total Payroll in the lookback year. In the final year of the term of the Agreement, no funds shall be permitted to be drawn on the Line-of-Credit by the Company until after the expiration of the three-year period permitting the award of credits or partial credits for that Project Year so the actual Total Payroll for that year can be determined by the City.

For purposes of this Agreement, "payroll" shall mean the total payroll of the Company for all employees regularly occupying the Springdale Facility including permanent, temporary, full-time, part-time, leased employees, or employees provided by a staffing service performing business for the Company, which payroll is subject to the City income tax, computed in accordance with generally accepted accounting principles and applied on a consistent basis from year to year pursuant to the City's tax code.

5. By March 1, following the end of each Project Year, the Company shall provide to the City payroll records in form and content satisfactory to the City validating and supporting the amount of the Line-of-Credit Draw. For purposes of this Agreement, the term "Project Year" shall mean a twelve-month period beginning January 1st and ending December 31st of each calendar year during the term of this Agreement. In the event services are provided by a third-party, the Company shall cause such third-party to provide such documentation to the City at the Company's sole cost.
6. The City shall have the right to reasonably review the books and records of the Company specifically relating to City employment and payroll. Any such records will be made available at the Company's offices and subject to a confidentiality

agreement as mutually acceptable to the Company and the City.

7. The term of this Agreement shall commence upon execution hereof and shall continue until July 1, 2037 unless earlier terminated as provided herein. If the Company, fails to occupy the Springdale Facility within 18 months of the commencement of this agreement, ceases to do business, either entirely or no longer conducts business at the Springdale Facility or another facility located within the City of Springdale, the City may terminate this Agreement upon immediate written notice and the Company shall have no further rights under the remaining Line-of-Credit.

If the Agreement is terminated prior to July 1, 2037, the Company shall reimburse to the City up to a maximum amount of \$850,000. The actual amount of repayment to the City shall be calculated by subtracting the amount of accumulated Net Payroll Taxes collected by the City for employment at the project location from \$850,000 to derive the amount due to be repaid to the City. Net Payroll Taxes are defined as the total annual employee payroll taxes retained by the City after the annual payment of the Line-of-Credit as defined in Section 4 of this Agreement. For clarity, the calculation to determine reimbursement to the City in case of termination of this Agreement under this section shall be:

\$850,000.00 minus Net Payroll Taxes collected by City from commencement of this Agreement to date of termination equals reimbursement that shall be payable to City. Any reimbursement payable and due to City shall be paid by check or wire transfer to City within 60 days of notice of termination.

8. No waiver of any condition or covenant of this Agreement shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of the City of any right or remedy in law or otherwise.
9. This Agreement may not be assigned by either party without the express written agreement of the other party hereto.
10. The terms and conditions contained in this Agreement are binding on all successors and assigns of the company and the City.
11. The parties acknowledge that the Ohio State General Assembly is contemplating changes to municipal income tax laws that may negatively impact the City's ability to impose and/or collect an income tax as is currently in place. In the event that the General Assembly enacts any law that reduces the total amount of income tax ultimately received by the City, the Company's Line-of-Credit Draw shall be reduced by the same proportional percentage. For example, if a change in state law reduces the amount of income tax ultimately received by the City by ten percent (10%), the Company's Line-of-Credit Draw shall also be reduced by ten percent (10%).

Signature pages to follow.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound, have each caused this agreement to be executed by their authorized representatives as of the date set forth above.

THE CITY OF SPRINGDALE, OHIO

By: Lawrence C. Hawkins, III, Mayor

Date: _____

STATE OF OHIO

SS:

COUNTY OF HAMILTON

On the ____ day of _____, 2024, before me, a Notary Public in and for Hamilton County, Ohio, personally appeared Lawrence C. Hawkins, III, Mayor of the City of Springdale, Ohio, who acknowledged that he did sign the foregoing Agreement on behalf of the City and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal

Notary Public

APPROVED AS TO FORM:

Joseph J. Braun, Law Director

ENABLE INJECTIONS, INC.

By: _____

Printed Name: _____

Title: _____

Date: _____

STATE OF OHIO

SS:

COUNTY OF _____

On the ____ day of _____, 2024, before me a Notary Public in and for _____ County, _____, personally appeared _____, the _____ of Enable Injections, Inc., who acknowledged that he did sign the foregoing Agreement on behalf of said Company and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal.

Notary Public

City of Springdale, Ohio
 Job Creation and Retention Incentive Program
 Annual Total Payroll and Line-of-Credit Draw
 Enable Injections, Inc.

EXHIBIT 1 - ORDINANCE 06-2024

Project Year	Calendar Year	Column A	Column B	Column C	Column D	Column E	Years of Individual Refund Deduct
		Total Payroll ¹	Less Employee Refund Filings ²	Net Payroll ³	Incentive Amount	Line-of-Credit Draw Payment	
1	2025	\$ 8,436,000		\$ 8,436,000	\$ 101,232	NO DRAW THIS YEAR	N/A
2	2026	\$ 16,637,000	\$ -	\$ 16,637,000	\$ 199,644	\$ 101,232	2025
3	2027	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 227,364	\$ 199,644	2025,2026
4	2028	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 227,364	\$ 227,364	2025,2026,2027
5	2029	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 227,364	\$ 227,364	2026,2027,2028
6	2030	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 189,470	\$ 227,364	2027,2028,2029
7	2031	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 189,470	\$ 189,470	2028,2029,2030
8	2032	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 189,470	\$ 189,470	2029,2030,2031
9	2033	\$ 18,947,000	\$ -	\$ 18,947,000	\$ 189,470	\$ 189,470	2030,2031,2032
10	2034	\$ 18,947,000	\$ -			\$ 189,470	2031,2032,2033
11	2035		\$ -			NO DRAW THIS YEAR	N/A
12	2036		\$ -			NO DRAW THIS YEAR	N/A
13	2037		\$ -	\$ 18,947,000	\$ 189,470	\$ 189,470	2034,2035,2036
Total					\$ 1,930,318	\$ 1,930,318	

¹This number is new full-time equivalent jobs only and does NOT include the retention of existing positions in Springdale.

²City will report annually the amount of payroll to deduct from column A, based on employee refunds filed for the previous year (i.e. remote work withholdings that must be refunded to employee).

³Net Payroll in any Project Year (except Project Year 13) is computed as: Total Payroll in current Year (Column A) - Employee Refunds (Column B) filed in Current Year from any prior Project Year.

⁴Net Payroll in Project Year 13 is computed as: Total Payroll Year 10 (Column A) - Employee Refunds (Column B) in Project Years 11,12,13.

ORDINANCE NO. 07-2024

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING REIMBURSEMENT AGREEMENT, APPROVING RELATED MATTERS, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 35-2018 (the “TIF Ordinance”) adopted by this City Council (the “Council”) of the City of Springdale, Ohio (the “City”) on June 20, 2018, the City exempted certain parcels of real property (the “Exempted Property”) within the Springdale Commerce Park TIF Site and declared certain public improvements (the “Public Improvements”) to be a public purpose, all as further described in the TIF Ordinance; and

WHEREAS, pursuant to the TIF Ordinance, owners of the Exempted Property are required to make service payments in lieu of taxes (the “PILOTs”) directly to the Hamilton County Treasurer based in the incremental value of the Exempted Property; and

WHEREAS, in accordance with the TIF Ordinance and Ohio Revised Code Section 5709.42, this Council established the Springdale Commerce Park TIF Site Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”), into which the PILOTs have been and are to be deposited; and

WHEREAS, at the request of Springdale Commerce Park Owner, LLC, or an entity related thereto (the “Owner”), and Enable Injections, Inc. (“Enable Injections”), the City desires to use PILOTs to reimburse the Owner for a portion of the costs (the “Costs”) of certain Public Improvements benefitting the Exempted Property and located within the City by entering into a Tax Increment Financing Reimbursement Agreement (the “TIF Agreement”) with the Owner; and

WHEREAS, in accordance with the terms of the TIF Agreement, amounts used to reimburse the Owner for costs previously incurred to acquire and construct the Public Improvements shall be provided to Enable Injections to pay a portion of the costs of the tenant improvements to be incurred by Enable Injections in connection with its location of operations within the City; and

WHEREAS, the City has determined that it is in the best interests of the City to enter into the TIF Agreement and consummate the transactions set forth therein because the City will receive substantial economic and non-economic benefits from Enable Injections’ operations within the City, which will create jobs, stimulate economic growth in the City, and enable the Exempted Property to be put to its highest and best use, for the benefit of the people of the City; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to lend aid or credit for industry, commerce distribution and research; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Springdale, _____ members elected thereto concurring:

Section 1. That the Recitals to this Ordinance are incorporated herein by reference.

Section 2. That the form of TIF Agreement on file with this Council providing for the reimbursement of a portion of the Costs of Public Improvements by the City from money deposited into the TIF Fund, is hereby approved and authorized with changes and completions thereto that are not inconsistent with this Ordinance, not substantially adverse to the City and approved by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute and deliver the TIF Agreement in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the Mayor, and the character of those changes and completions as not being substantially adverse to the City, will be evidenced conclusively by the signature of the Mayor.

Section 3. For the avoidance of doubt, the Costs paid by the City shall be in the aggregate amount of \$850,000 and shall constitute a special obligation of the City payable solely from amounts on deposit in the TIF Fund as described in the TIF Agreement. No other funds are pledged to the payment of the Costs, and neither the Owner nor any other beneficiary of the payment of the Costs has a right to have taxes levied for the payment of the Costs. Funds on deposit in the TIF Fund in the amount of \$850,000 are hereby appropriated to pay the Costs as set forth in the TIF Agreement, and the fiscal officer of the City is hereby authorized to make payments in satisfaction of the Costs in accordance with the TIF Agreement.

Section 4. That, this Council hereby authorizes and directs the Mayor, or other appropriate officers, officials, and employees of the City to make such arrangements as are necessary and proper for the payment of the Costs in accordance with the TIF Agreement. This Council further hereby authorizes and directs those officers to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

Section 5. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II(D)(3)(d) of the Charter, be effective immediately. The reason for the emergency is the immediate need to enable the parties to execute the TIF Agreement as soon as possible so that Enable Injections can promptly commence operations within the City, thereby creating a significant economic benefit and enhancement to the City at the earliest possible time.

Passed this 7th day of February, 2024.

President of Council

Attest:

Clerk of Council

Approved:

Mayor

Date

CERTIFICATE

The undersigned, Clerk of Council, City of Springdale, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 07-2024, adopted February 7, 2024.

Clerk of Council

EXTRACT FROM MINUTES OF MEETING

The Council of the City of Springdale, County of Hamilton, Ohio, met in regular session, at 7:00 p.m., on the 7th day of February, 2024, at 11700 Springfield Pike, Springdale, Ohio 45246, with the following members present:

There was presented and read to Council Ordinance No. 07-2024, entitled:

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING REIMBURSEMENT AGREEMENT, APPROVING RELATED MATTERS, AND DECLARING AN EMERGENCY.

M____ then moved that Ordinance No. 07-2024 be adopted. M____ seconded the motion and, the roll being called upon the question, the vote resulted as follows:

Mr. Gleaves	_____
Mr. Jacobs	_____
Ms. McFarland	_____
Mrs. Sullivan-Wisecup	_____
Mr. Vanover	_____
Mrs. Webster	_____
Mr. Anderson	_____

The ordinance was declared adopted February 7, 2024.

CERTIFICATE

The undersigned, Clerk of Council of the City of Springdale, Ohio, hereby certifies that the foregoing is a true and correct extract from the minutes of a meeting of the council of said municipality, held on the 7th day of February, 2024, to the extent pertinent to consideration and adoption of the above-entitled legislation.

Clerk of Council

EXHIBIT A
ORDINANCE 07-2024

TAX INCREMENT FINANCE REIMBURSEMENT AGREEMENT
(SPRINGDALE COMMERCE PARK PROJECT)

This Tax Increment Financing Agreement (the “Agreement”), made and entered into as of this day of February __, 2024 (the “Effective Date”), by and between the CITY OF SPRINGDALE, OHIO (the “City”), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio, and SPRINGDALE COMMERCE PARK OWNER, LLC, a Delaware limited liability company (the “Owner”). Capitalized terms used herein and not otherwise defined shall have the meanings set forth for such terms in the Cooperative Agreement (itself defined *infra*).

WITNESSETH:

WHEREAS, the City Council of the City (the “City Council”), by its Ordinance No. 35-2018, passed June 20, 2018, attached as Exhibit A (as amended, the “TIF Ordinance”), has declared the improvement of certain parcels of real property located within the City as identified in the TIF Ordinance (each individually, as now or hereafter configured, a “Parcel” and collectively the “Parcels” or the “Springdale Commerce Park TIF Site”) to be a public purpose and exempt from taxation, has required the owner of each Parcel to make service payments in lieu of taxes (collectively for all Parcels, the “Service Payments”) to the Hamilton County Treasurer, has provided for the distribution of the applicable portion of the Service Payments to the Boards of Education of the Princeton City School District and the Great Oaks Institute of Technology and Career Development pursuant to a tax incentive agreement or agreements (the “School Compensation Agreement”), has established the Springdale Commerce Park TIF Site Public Improvement Tax Increment Equivalent Fund as specified in the TIF Ordinance (the “TIF Fund”) for the deposit of the remainder of such Service Payments, and has specified public infrastructure improvements made or to be made that benefit or serve the Parcels, all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code (the “ORC”); and

WHEREAS, the Port of Greater Cincinnati Development Authority (the “Port Authority”), the City, the Owner, and Strategic Capital Partners, LLC, have entered into a Cooperative Agreement dated as of August 15, 2018 (the “Cooperative Agreement”), pursuant to which a portion of the Service Payments payable by the owner of the Phase 1 TIF Parcels shall be used to debt service and related costs of the Port Authority’s Development Revenue Bonds (Southwest Ohio Regional Bond Fund) Series 2018D (Springdale Commerce Park Project) (the “Bonds”); and

WHEREAS, the Service Payments payable by the owner of the Phase 2 TIF Parcels (the “Phase 2 Service Payments”) are not pledged, assigned, or otherwise obligated toward the payment of the Bonds under the Cooperative Agreement or any other instrument; and

WHEREAS, pursuant to the Cooperative Agreement and a Construction Manager At-Risk Agreement dated as of October 1, 2018, by and between the Owner and the Port Authority, the Owner was responsible for the construction of the Public Improvements benefitting the Springdale Commerce Park TIF Site; and

WHEREAS, for purposes of constructing the Public Improvements, the Owner incurred costs which were not reimbursed from proceeds of the Bonds; and

WHEREAS, an entity under the control of, or common control with, the Owner, Springdale Commerce Park 1-4 Owner, LLC (the “Landlord”) is in the process of leasing commercial space within the Phase 2 Project and has negotiated lease terms with Enable Injections, Inc., a Delaware corporation, or an affiliate thereof (“Enable Injections”) pursuant to which Enable Injections intends to lease approximately 90,000 Sq. Ft. of the Phase 2 Project for its operations (the “Lease”); and

WHEREAS, the City intends to reimburse the Owner for unreimbursed costs of the Public Improvements in the amount of eight hundred fifty thousand dollars (\$850,000) (the “Reimbursement”) in order to allow the Landlord to provide Enable Injections with a larger tenant improvement allowance under the Lease, thus allowing Enable Injections to establish operations within the City; and

WHEREAS, the City has determined that it is in the best interests of the City to make the foregoing Reimbursement so as to allow for the Landlord to provide a larger tenant improvement allowance to Enable Injections for the purpose of effecting their establishment of operations in the City; and

WHEREAS, City Council authorized the execution and delivery of this Agreement by Ordinance No. __-2024, passed February 7, 2024;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the parties hereto agree to the foregoing and as follows:

Section 1. Public Improvements. The Owner has completed the Public Improvements contemplated under the Cooperative Agreement and in the process of doing so has incurred costs of the construction of such Public Improvements that were not reimbursed from the proceeds of the Bonds. Such unreimbursed costs are set forth in Exhibit B attached hereto and made a part hereof. The Owner has provided the City materials evidencing the payment of the costs of such Public Improvement by the Owner or its affiliates with funds other than proceeds of the Bonds.

Section 2. Available Service Payments; Payment of Reimbursement. The TIF Fund has been maintained in the custody of the City and has received all distributions of Phase 2 Service Payments required to be made to the City pursuant to the TIF Ordinance. Phase 2 Service Payments deposited in the TIF Fund have been used to pay the Princeton City School District and the Great Oaks Institute of Technology and Career Development any amounts due and payable pursuant to the School Compensation Agreement. As of the Effective Date, Phase 2 Service Payments in an amount equal to, or in excess of, the Reimbursement remain on deposit in the TIF Fund (the “Available Amounts”).

Within sixty (60) days of (i) receipt by the City of a fully executed copy of the Lease, and (ii) issuance by the appropriate department of the City, in the ordinary course of business, of a building permit authorizing tenant improvements within the portion of the Phase 2 Project to be occupied by Enable Injections (or if no permits are required, submission of reasonable evidence to the City that construction has commenced on such tenant improvements), the City will disburse to

the Landlord, as the designee of the Owner hereunder, Available Amounts in an amount equal to the Reimbursement to reimburse the Owner for previously incurred costs to acquire and construct the Public Improvements (the “Reimbursement Obligation”). The Owner hereby acknowledges that any such distribution of the Reimbursement to Landlord shall satisfy the City’s obligation hereunder to reimburse the Owner for the unreimbursed costs of Public Improvements.

Upon distribution in full of the Reimbursement to the Landlord, any additional amounts on deposit and thereafter deposited in the TIF Fund may be used by the City for any lawful purpose, subject to the TIF Ordinance.

Section 3. Reimbursement Obligation. This Agreement evidences the City’s obligation to disburse the Reimbursement in accordance with the terms of this Agreement. The Reimbursement is a special obligation of the City, payable solely from and secured only by money deposited in the TIF Fund, and payable without the necessity of additional appropriation of money in the TIF Fund for such payment.

The Reimbursement shall be only paid by the City from Available Amounts. Until the Reimbursement is paid in full, the City Council shall not amend, modify or repeal the TIF Ordinance in any way, or take any other legislative action that would affect the amount of Service Payments deposited into the TIF Fund except as approved by the Owner in writing or required by law. Until the Reimbursement is paid in full, the City shall not transfer, encumber, spend or use any Available Amounts on deposit in the TIF Fund if transfer, encumbrance, expenditure, or use would reduce the amount of Available Amounts on deposit in the TIF Fund below the amount of the Reimbursement, unless this Agreement is amended as provided herein. Without limiting the availability of enforcement by mandamus of other obligations of the City under this Agreement, all of the obligations of the City under Section 2 and Section 3 are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Ohio Revised Code Section 2731.01, and are enforceable by mandamus.

No payment obligations of the City under this Agreement shall constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Owner has no right to have taxes or excises levied by the City for the payment of the Reimbursement Obligation.

Section 4. Representations of the Owner. The Owner hereby represents and warrants to the City that the Owner will cause the Landlord to provide Enable Injections with a tenant improvement allowance, separate from the tenant improvement allowance provided by Landlord from its own funds under the Lease, equal to the amount of the Reimbursement distributed to Landlord pursuant to Section 2 hereof (the “Special Allowance”). Owner further represents and warrants that it will require the Landlord to disburse to Enable Injections such Special Allowance within thirty (30) days of Landlord’s receipt thereof.

Section 5. Successors; Assignment; Amendments; City Consents. This Agreement is binding upon the parties hereto and their successors and assigns. A party may only assign this Agreement with the written consent of the other party. Nothing in this Agreement prevents the Owner from transferring any or all of its interest in a Parcel to another person or entity. This Agreement may only be amended by written instrument executed by all parties to this Agreement.

Unless otherwise provided in this Agreement, any consent or approval of the City to be given under this Agreement may be given by the City Administrator or the Mayor of the City and must be given in writing.

Section 6. Extent of Covenants; No Personal Liability. All obligations of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. No such obligation is an obligation of any present or future member of the City Council or any officer, agent or employee of either party in that person's individual capacity, and neither the members of the City Council, nor any individual person executing this agreement on behalf of the City or the Owner, will be liable personally by reason of the obligations of the City or the Owner contained in this Agreement.

Section 7. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

- (a) To Owner: Springdale Commerce Park Owner, LLC
8900 Keystone Crossing, Suite 100
Indianapolis, Indiana 46240
Attn: John Cumming

- (b) To the City at: City of Springdale
11700 Springfield Pike
Springdale, Ohio 45246
Attn: City Administrator

Section 8. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision is fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 9. Separate Counterparts. This Agreement may be executed by the parties in one or more counterparts or duplicate signature pages, each of which when so executed and delivered is an original, with the same force and effect as if all required signatures were contained

in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Signatures transmitted by facsimile or electronic means are deemed original signatures.

Section 10. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties. The parties hereto acknowledge and agree that this Agreement is the product of an extensive and thorough, arm's length negotiation and that each party has been given the opportunity to independently review the Agreement with legal counsel, and that each party has the requisite experience and sophistication to negotiate, understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement may not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction must be utilized.

Section 11. Term. The term of this Agreement commences as of the date of this Agreement and terminates upon payment in full of the Reimbursement Obligation in accordance with Section 2 hereof, and the payment by the Landlord of the Special Allowance to Enable Injections in accordance with Section 4 hereof.

Section 12. No Agency Relationship. The City and Owner each acknowledge and agree that in fulfilling its obligations under this Agreement, Owner is not acting as an agent of the City.

Section 13. Governing Law and Choice of Forum. This Agreement is governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its employees, contractors, subcontractors and agents, and the Owner, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Hamilton County, Ohio.

Section 14. Exhibits. The following Exhibits are attached to this Agreement:

- (i) Exhibit A: TIF Ordinance
- (ii) Exhibit B: Unreimbursed Public Improvement Costs

(Signatures on next page)

IN WITNESS WHEREOF, the City has caused this Tax Increment Financing Agreement (Springdale Commerce Park Project) to be executed in its name by its duly authorized officers, as of the date first set forth above.

CITY OF SPRINGDALE, OHIO

By: _____
Lawrence C. Hawkins, III, Mayor

Approved as to form:

Joseph J. Braun, Law Director

FISCAL OFFICER'S CERTIFICATE

The City has no obligation to make payments pursuant to the foregoing Agreement except from Phase 2 Service Payments to be collected for deposit into the TIF Fund. That money has been pledged and appropriated for expenditure in accordance with the foregoing Agreement. Accordingly, as fiscal officer for the City of Springdale, Ohio, I hereby certify that funds sufficient to meet the obligations of the City under the foregoing Agreement, but in an amount not greater than those Phase 2 Service Payments actually received by the City, have been lawfully appropriated for the purposes thereof and are available in the treasury of the City, and/or upon implementation of the processes under Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance. This Certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

Dated: February ____, 2024

Katie Smiddy, Finance Officer/Tax Commissioner
City of Springdale, Ohio

IN WITNESS WHEREOF, the Owner has caused this Tax Increment Financing Agreement (Springdale Commerce Park Project) to be executed in its names by its duly authorized officer, as of the date first set forth above.

SPRINGDALE COMMERCE PARK
OWNER, LLC

By: _____

Name: _____

Title: Manager

EXHIBIT A
TIF ORDINANCE

[to be attached]

EXHIBIT B
UNREIMBURSED PUBLIC IMPROVEMENT COSTS

Public Roadway Improvements	\$850,000.00
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