

Pride ~ Progress ~ Possibilities

**Riverside Municipal Building
5200 Springfield Street, Suite 100
Riverside, Ohio 45431**

April 20, 2023

Council Meeting

6:00 P.M.

City Council

PETER J. WILLIAMS, MAYOR

**MIKE DENNING
APRIL FRANKLIN
BRENDA FRY
ZACHARY JOSEPH
SARA LOMMATZSCH
JESSE MAXFIELD**

Josh Rauch, City Manager

Katie Lewallen, Clerk of Council

Calendar for year 2023 (United States)



January

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Council meetings in aubergine.

Work sessions in pale yellow.

Jan 1 • New Year's Day
Jan 2 • 'New Year's Day' day off
Jan 16 • Martin Luther King Jr. Day
Feb 20 • Presidents' Day
May 29 • Memorial Day

Jun 19 • Juneteenth
Jul 4 • Independence Day
Sep 4 • Labor Day
Oct 9 • Columbus Day
Nov 10 • 'Veterans Day' day off

Nov 11 • Veterans Day
Nov 23 • Thanksgiving Day
Dec 25 • Christmas Day

AGENDA

Please place all cell phones in silent mode before the meeting begins.

RIVERSIDE CITY COUNCIL

**Riverside Administrative Offices
5200 Springfield Street, Suite 100
Riverside, Ohio 45431**

**Thursday, April 20, 2023
Business Meeting 6:00 P.M.**

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) EXCUSE ABSENT MEMBERS
- 4) ADDITIONS OR CORRECTIONS TO AGENDA
- 5) APPROVAL OF AGENDA
- 6) PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE
- 7) MINUTES – Approval of minutes from the April 6, 2023, council business meeting.
- 8) ACCEPTANCE OF CITIZEN PETITIONS
- 9) DEPARTMENT UPDATES:
 - A) Police Department
 - B) Fire Department
 - C) Public Service Department
 - D) City Manager Report
- 10) PUBLIC COMMENT ON AGENDA ITEMS
- 11) OLD BUSINESS
 - A) ORDINANCES
 - I) **Ordinance No. 23-O-824** – An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council (“SOPEC”) Electric Aggregation Program, for the purpose of jointly establishing and implementing an Electric Aggregation Program. (2nd reading, public hearing, adoption)
 - II) **Ordinance No. 23-O-825** – An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council (“SOPEC”) Natural Gas Aggregation Program, for the purpose of jointly establishing and

*If you need special accommodations to attend this meeting,
please notify the City of Riverside at least 72 hours in advance by calling 937.233.1801.*

implementing a Natural Gas Aggregation Program. (2nd reading, public hearing, adoption)

12) NEW BUSINESS

A) ORDINANCES

- III) **Ordinance No. 23-O-826** – An ordinance amending Chapter 1109 Zoning Development Standards of the Unified Development Ordinance (UDO) of the City of Riverside, Ohio. (1st reading)
- IV) **Ordinance No. 23-O-827** – An ordinance to repeal Ordinance No. 23-O-819, passed February 16, 2023, and declaring an emergency. (1st reading)
- V) **Ordinance No. 23-O-828** – An ordinance amending the annual salary for the Mayor and Council Members of the City of Riverside, Ohio. (1st reading)

B) RESOLUTIONS

- I) **Resolution No. 23-R-2838** – A resolution declaring miscellaneous Public Service Department equipment to be surplus and no longer needed for city purposes and authorizing its sale by sealed bid, a broker, direct sale to a public entity, or auction.
- II) **Resolution No. 23-R-2839** – A resolution authorizing the city manager of the City of Riverside, OH, to enter into preliminary consent legislation with the Ohio Department of Transportation for the rehabilitation of Spinning Road Phase 2 (Eastman to Burkhardt).
- III) **Resolution No. 23-R-2840** – A resolution authorizing the City to join the Sustainable Ohio Public Energy Council (“SOPEC”).

13) PUBLIC COMMENT ON NON-AGENDA ITEMS

14) COUNCIL MEMBER COMMENTS

- 15) EXECUTIVE SESSION – 103.01(1) Unless the City employee or official requests a public hearing; to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a city employee or official or the investigation of charges or complaints against a City employee or official; and 103.01(3) Conferences with any attorney representing the City as counsel, concerning disputes involving the City, its council, boards, commissions, officials and employees that are the subject of pending or imminent court action or discussions of any matters which are properly covered under the attorney-client privilege as recognized by the law of Ohio.

16) RECONVENE

17) ADJOURNMENT

MINUTES

CALL TO ORDER: Mayor Williams called the Riverside, Ohio, City Council Meeting to order at 6:06 p.m. at the Riverside Administrative Offices located at 5200 Springfield Street, Suite 100, Riverside, Ohio, 45431.

ROLL CALL: Council attendance was as follows: Mr. Denning, present; Mrs. Franklin, present; Ms. Fry, present; Mr. Joseph, present; Ms. Lommatzsch, present; Mr. Maxfield, absent; and Mayor Williams, present.

Staff present was as follows: Josh Rauch, City Manager; Chris Lohr, Assistant City Manager; Kim Baker, Finance Administrator; Dalma Grandjean, Law Director; and Katie Lewallen, Clerk of Council.

EXCUSE ABSENT MEMBERS: Mr. Denning moved, seconded by Deputy Mayor Lommatzsch to excuse Mr. Maxfield from the council meeting. All were in favor. **Motion carried.**

ADDITIONS OR CORRECTIONS TO THE AGENDA: No changes were made to the agenda.

APPROVAL OF AGENDA: Deputy Mayor Lommatzsch moved, seconded by Mr. Denning, to approve the agenda. All were in favor. **Motion carried.**

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE: Mayor Williams led the pledge of allegiance.

PROCLAMATIONS: Mayor Williams presented a proclamation declaring April 2023 as Fair Housing Month. Mayor Williams also presented a proclamation recognizing National Arab American Heritage Month for April 2023.

MINUTES: Mr. Joseph moved, seconded by Mr. Denning, to approve the minutes of the March 16, 2023, council business meeting. All were in favor. **Motion carried.**

WRITTEN CITIZEN PETITIONS: Mayor Williams stated that any citizen wishing to speak should fill out a petition form and turn it in to the clerk.

DEPARTMENT UPDATES:

A) Finance Department – Mr. Rauch introduced Ms. Kim Baker as the new Finance Administrator. He stated she comes from SSI, the company from which the city purchased their new finance software and had already been working well with the finance department on the implementation prior to coming on board. He added that she has already attended one state auditor training session. He stated that Mr. Garrett is out for a few weeks but is expected back mid-month.

B) Administration Department – Mr. Lohr stated that the class & compensation study is continuing, and they are looking at draft job descriptions. He stated that surveys have already been sent to some municipalities, and he is hoping to get responses from other cities by the end of April. The information will then be compiled for what is appropriate for city staff. He stated that he is working with Tech Advisors on improving the network infrastructure. There are two new servers, one at 5200 Springfield Street and one at 1791 Harshman Road; they replaced the nearly eight-year-old servers. They are also moving to virtual servers. Tech Advisors is cleaning up the active directory that will help to better manage Office 365 and moving the infrastructure to the cloud rather than locally.

C) Community Development Department – Mr. Rauch stated that Ms. Holt was recently at the National APA conference and gave a presentation on Imposter Syndrome.

D) City Manager Report – Mr. Rauch stated there was a good kickoff meeting regarding the SS4A grant with regards to the corridor. There are now draft documents the city can fill out. Once completed, they will go to the Federal Department of Transportation, and they should get something back in approximately 90 days. He will then bring it to the council for them to adopt. They will have 18 months to complete.

PUBLIC COMMENT ON AGENDA ITEMS: Mayor Williams stated that no one turned in a form to speak on agenda items.

OLD BUSINESS

A. ORDINANCES

- I) **Ordinance No. 23-O-822 – An ordinance to approve current replacement pages to the Codified Ordinances of Riverside, Ohio, and declaring an emergency. (2nd reading, public hearing, adoption)**

Deputy Mayor Lommatzsch moved, seconded by Mrs. Franklin, to approve the second reading of Ordinance No. 23-O-822. The clerk read the ordinance by title only.

Mayor Williams opened the public hearing at 6:23 pm. No one came forward to speak. He closed the public hearing at 6:23 pm.

Roll call: Ms. Lommatzsch, yes; Mrs. Franklin, yes; Mr. Denning, yes; Ms. Fry, yes; Mr. Joseph, yes; and Mayor Williams, yes. **Motion carried.**

- II) **Ordinance No. 23-O-823 – An ordinance to make supplemental appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December**

31, 2023, and declaring an emergency. (2nd reading, public hearing, adoption)

Mr. Denning moved, seconded by Mrs. Franklin, to approve the second reading of Ordinance No. 23-O-823. The clerk read the ordinance by title only.

Mayor Williams opened the public hearing at 6:24 pm. No one came forward to speak. He closed the public hearing at 6:24 pm.

Roll call: Mr. Denning, yes; Mrs. Franklin, yes; Ms. Fry, yes; Mr. Joseph, yes; Ms. Lommatzsch, yes; and Mayor Williams, yes. **Motion carried.**

NEW BUSINESS

A. ORDINANCES

- I) **Ordinance No. 23-O-824 – An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council (“SOPEC”) Electric Aggregation Program, for the purpose of jointly establishing and implementing an Electric Aggregation Program. (1st reading)**

Mr. Denning moved, seconded by Deputy Mayor Lommatzsch, to approve the first reading of Ordinance No. 23-O-824. The clerk read the ordinance by title only.

Roll call: Mr. Denning, yes; Ms. Lommatzsch, yes; Mrs. Franklin, yes; Ms. Fry, yes; Mr. Joseph, yes; Ms. Lommatzsch, yes; and Mayor Williams, yes. **Motion carried.**

- II) **Ordinance No. 23-O-825 – An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council (“SOPEC”) Natural Gas Aggregation Program, for the purpose of jointly establishing and implementing a Natural Gas Aggregation Program. (1st reading)**

Mr. Denning moved, seconded by Mrs. Franklin, to approve the first reading of Ordinance No. 23-O-825. The clerk read the ordinance by title only.

Roll call: Mr. Denning, yes; Mrs. Franklin, yes; Ms. Fry, yes; Mr. Joseph, yes; Ms. Lommatzsch, yes; and Mayor Williams, yes. **Motion carried.**

A. RESOLUTIONS

- I) **Resolution No. 23-R-2834 - A resolution authorizing the city manager to enter into a contract for the purchase of an ambulance for use at the Department of Fire under the State of Ohio Cooperative Bid Program.**

Mrs. Franklin moved, seconded by Mr. Denning, to approve Resolution No. 23-R-2834.

All were in favor. **Motion carried.**

- II) **Resolution No. 23-R-2835 – A resolution authorizing the city manager to purchase a replacement generator for Fire Station 6 from Generator Systems, LLC.**

Mr. Denning moved, seconded by Mrs. Franklin, to approve Resolution No. 23-R-2835.

All were in favor. **Motion carried.**

- III) **Resolution No. 23-R-2836 – A resolution authorizing the city manager to enter into a provider agreement with Freepoint Energy Solutions for electricity supplier services at the Wright Point Office Complex.**

Mrs. Franklin moved, seconded by Mr. Joseph, to approve Resolution No. 23-R-2836.

All were in favor. **Motion carried.**

- IV) **Resolution No. 23-R-2837 – A resolution affirming the city manager’s acceptance of an Ohio Department of Public Safety Subgrant.**

Mr. Denning moved, seconded by Mr. Joseph, to approve Resolution No. 23-R-2837.

All were in favor. **Motion carried.**

PUBLIC COMMENT ON NON-AGENDA ITEMS: No one came forward to comment.

COUNCIL MEMBER COMMENTS: Deputy Mayor Lommatzsch moved, seconded by Mr. Joseph to publicly support the Mad River Schools Issue 12. Deputy Mayor Lommatzsch stated that she wants to recognize the school district and added that they have been frugal with taxpayers’ money. They have also put an SRO back in the schools, and she hopes they do more. She stated they need to support the school district.

Mr. Joseph thanked the White House for sending the First Lady, Dr. Jill Biden, to visit Riverside, OH, at the Beverly Gardens School.

Mr. Franklin wished everyone a Happy Easter.

Mayor Williams stated that April is nationally known for the Month of the Military Child. He stated that Beverly Gardens Elementary School was the first in the nation for being a Purple Star School, and that the Mad River School District was the first and is the largest, having all of its schools recognized as Purple Star Schools. He added that there are many resources in the schools dedicated for children and spouses as deployments occur. Discussion was held amongst council members on the difficulties military children face being moved to multiple schools, and the improvements that have been made over the years. Mr. Joseph added that when military personnel retire it isn't just that family member, the entire family is recognized as having been the support for that person.

Mr. Denning reminded everyone that the Jaycees Easter Egg Hunt is at Beverly Gardens Elementary School at 10:00 am on Saturday, April 8, 2023.

EXECUTIVE SESSION: Mrs. Franklin moved, seconded by Mr. Denning, to go into Executive Session for the following: 103.01(1) Unless the City employee or official requests a public hearing; to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a city employee or official or the investigation of charges or complaints against a City employee or official; 103.01(2) To consider the purchase of property for public purposes, or for the sale of public property, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal or private interest is adverse to the general public interest; and 103.01(3) Conferences with any attorney representing the City as counsel, concerning disputes involving the City, its council, boards, commissions, officials and employees that are the subject of pending or imminent court action or discussions of any matters which are properly covered under the attorney-client privilege as recognized by the law of Ohio. Roll call went as follows: Mrs. Franklin, yes; Mr. Denning, yes; Ms. Fry, yes; Mr. Joseph, yes; Ms. Lommatzsch, yes; and Mayor Williams, yes. Council went into executive session at 6:44 pm.

RECONVENE: Council reconvened at 7:48 pm.

ADJOURNMENT: Mrs. Franklin moved, seconded by Mr. Denning, to adjourn. All were in favor. **Motion carried.** The meeting adjourned at 7:48 pm.

Peter J. Williams, Mayor

Clerk of Council

CITY COUNCIL CALENDAR

2023 COUNCIL CALENDAR

April 6, 2023

- Monthly Update: Finance, Administration, Community Development, and CM Report
- Proclamations: Fair Housing Month; National Arab American Heritage Month
- Ordinance: Codification of Riverside Code (2nd reading)
- Ordinance: Supplemental (2nd reading)
- Ordinance: Electric Aggregation Plan of Governance (1st reading)
- Ordinance: Natural Gas Aggregation Plan of Governance (1st reading)
- Resolution: Medic Purchase
- Resolution: Flock Camera Grant Implementation
- Resolution: Electrical Service for WP
- Resolution: Generator Purchase
- Executive Session: Litigation, Personnel, Property

April 13, 2023 – Work Session

- Council/Mayor Salary
- Table of Organization
- Revised Source Water Protection Code Update
- Revised Property Maintenance Code Update
- CRA Technical Correction for Central and South CRAs
- Development Incentive Requests
- Rohrer Park Pavilion

April 20, 2023

- Monthly Update: Police, Fire, Public Services, and CM Report
- Ordinance: Electric Aggregation Plan of Governance (2nd reading)
- Ordinance: Natural Gas Aggregation Plan of Governance (2nd reading)
- Ordinance: Elected Official Salaries (1st reading)
- Ordinance: TO Changes
- Resolution: SOPEC
- Resolution: Surplus Property
- Resolution: Spinning Road Participatory ODOT

May 4, 2023

- Monthly Update: Finance, Administration, Community Development, and CM Report
- Presentation: Dayton Metro Library, Adam Schwiebert – Government Relations Director
- Ordinance: Elected Official Salaries (2nd reading)
- Ordinance: Revised Property Maintenance Code (1st reading)
- Ordinance: Water Protection Overlay District Amendment (1st reading)
- Resolution: Grass Assessment (Tom)
- Resolution: Necessity for Assessments (Lynnhaven/Meyer Curb/Gutter)

2023 COUNCIL CALENDAR

May 11, 2023 – Work Session

- Mad River Peewee Football Agreement
- Shellabarger Park Use Agreements
- Stormwater Utility Fee Update
- Land Use Plan Update (MKSK)

May 18, 2023

- Monthly Update: Police, Fire, Public Services, and CM Report
- Proclamation: Mental Health Awareness Month
- Ordinance: Water Protection Overlay District Amendment (2nd reading)
- Ordinance: Revised Property Maintenance Code (2nd reading)

June 1, 2023

- Monthly Update: Finance, Administration, Community Development, and CM Report
- Ordinance: Supplemental (1st Reading)

June 8, 2023 – Work Session

June 15, 2023

- Monthly Update: Police, Fire, Public Services, and CM Report
- Ordinance: Supplemental (2nd Reading)
-

July 13, 2023 – Work Session

July 20, 2023

- Monthly Update: Finance, Administration, Community Development, and CM Report

LEGISLATION



MEETING DATE: April 20, 2023

AGENDA ITEM: Old Business

TO: Riverside City Council

FROM: Chris Lohr, Assistant City Manager

SUBJECT: Ordinance 23-O-824 - An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council ("SOPEC") Electric Aggregation Program, for the purpose of jointly establishing and implementing an Electric Aggregation Program.

EXPLANATION

In November 2022, voters approved a ballot measure allowing the establishment of a City opt-out electric aggregation program. In order to put the aggregation program into operation, the Ohio Revised Code requires the City to adopt a Plan of Operations and Governance by ordinance. The attached ordinance adopts the Sustainable Ohio Public Entities Council (SOPEC) Electric Aggregation Plan of Operation and Governance as the plan for the City of Riverside.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation

FISCAL IMPACT

None.

SOURCE OF FUNDS

N/A

EXHIBITS

N/A

AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL (“SOPEC”) ELECTRIC AGGREGATION PROGRAM, FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN ELECTRIC AGGREGATION PROGRAM.

WHEREAS, this City Council of Riverside, Ohio (the “City”) previously enacted legislation authorizing the City to establish an opt-out electric aggregation program pursuant to Section 4928.20, Ohio Revised Code (the “Electric Aggregation Program”), for the residents, businesses, and other electric consumers located within the City, and for that purpose, to act jointly with other village, city, township, municipal corporation, county, or other political subdivision of the State of Ohio, as permitted by law; and

WHEREAS, by joining the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council) (“SOPEC”), the City will be able to act jointly with other member political subdivisions and thereby maximize the potential benefits of electric deregulation through group purchasing efforts; and

WHEREAS, this City Council, pursuant to Section 4928.20, Ohio Revised Code, has held two (2) public hearings on the Plan of Operation and Governance (the “Plan”) for the SOPEC Electric Aggregation Program.

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

Section 1: This City Council hereby approves and adopts the Plan of Operation and Governance of the SOPEC Electric Aggregation Program in the form presented to this City Council and on file with the Clerk.

Section 2: It is found and determined that all formal actions of this City Council concerning and relating to the passage of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including the City’s Codified Ordinances and Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED THIS DAY OF _____.

23-O-824

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-824 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK

SOPEC

Sustainable Ohio Public Energy Council



**Southeast Ohio Public Energy Council
(DBA Sustainable Ohio Public Energy Council)**

**Electric Plan of Operation &
Governance**

For Member Communities

02/18/2021

Table of Contents

	<i><u>Page</u></i>
I. Introduction	1
II. Description and Objectives of the Aggregation Program: Endorsement Program	1
III. Goals of the Aggregation Program	2
IV. Rates	3
V. Steps for Communities during the Aggregation Program	3
VI. Participation in the Aggregation Program: Endorsement Program	4
VII. Notification of Opt-Out Aggregation Program Customers	6
VIII. The City of Athens, Ohio Carbon Fee	8
IX. Customer Service	8
X. Customer Protections	9
XI. Customer Complaints	10
XII. Termination of Participation in the Opt-Out Aggregation Program	10
XIII. Termination of Participation in the Opt-In Aggregation Program	11
XIV. Organizational Structure	11
Organizational Structure Chart	14
XV. Certification	15
XVI. Aggregation Program Funding	15
XVII. Modification of SOPEC's Plan	15

I. Introduction

This Plan of Operation and Governance (the “Plan”) has been prepared by the Southeast Ohio Public Energy Council (DBA Sustainable Ohio Public Energy Council) (“SOPEC”) on the behalf of its current members and any future members that may join SOPEC’s governmental aggregation of electric customers (the “Aggregation Program”). The Plan contains information on the structure, governance, operations, management, funding, and policies of the Aggregation Program to be utilized for participating customers in member communities.

On November 5, 2013, the voters of Athens City and Athens County approved ballot measures that authorized governmental electrical aggregation. The City has agreed to be part of the County aggregation program as permitted under Ohio Revised Code (“R.C.”) 4928.20(A), which allows for the creation of an “opt-out” aggregation program. Subsequently, additional member communities chose to join SOPEC’s Aggregation Program. Under SOPEC’s Opt-Out Aggregation Program (defined below), electric residential and non-mercantile commercial customers located in member communities are included in the Opt-Out Aggregation Program unless they explicitly opt-out.

To comply with the Public Utilities Commission of Ohio’s (“PUCO”) regulations, SOPEC members joined together to form an “aggregation council”, which filed an application for certification as a government aggregator with the PUCO. The following Plan, which SOPEC member communities developed, has also been filed with the PUCO. The Plan was adopted after public hearings were held in accordance with R.C. 4928.20(C), and modified by the SOPEC members.

II. Description and Objectives of the Aggregation Program: Endorsement Program

This Plan includes details related to operations of the collaborations between SOPEC members, the procurement of energy supply, and the expectations of members for Suppliers (defined below). This Plan includes all information necessary for the certification of SOPEC by the PUCO as a governmental aggregator under R.C. 4928.20.

The Aggregation Program contains two types of aggregations, an “Opt-Out Aggregation Program” and an “Opt-In Aggregation Program”. Under the Opt-Out Aggregation Program, participation is voluntary for each individual customer in a member community. Individual customers will be notified of their inclusion in the Opt-Out Aggregation Program and will have the opportunity to decline service. The customers may choose any electric supplier they wish at the outset of the program and at least every three years thereafter. New member communities also shall have the opportunity to join SOPEC’s Opt-Out Aggregation Program.

Under the Opt-In Aggregation Program, SOPEC offers customers who live in SOPEC member communities the ability to join the Opt-In Aggregation Program upon their affirmative consent. Customers who want to participate in SOPEC’s Opt-In Aggregation Program can contact the Supplier to enroll. Supplier and SOPEC also may contact individuals in SOPEC member communities regarding opt-in opportunities.

SOPEC and Supplier may offer customers more than one product during the Opt-Out Aggregation process and also during the Opt-In Aggregation process. SOPEC also may endorse any competitive retail electric service supplier to offer within SOPEC’s member communities products that are not included in the Aggregation Program, or sponsor other

programs (including endorsement programs) pursuant to one or more program agreements with any SOPEC member(s) or non-member(s) as may be authorized by the SOPEC Board of Directors (“Endorsement Program(s)”).

III. Goals of the Aggregation Program

The specific goals of the Aggregation Program are as follows:

1. To pursue reasonably priced energy supply through the bargaining power of pooled customer aggregation purchases;
2. To ensure maximum investment of energy generation dollars in local projects and energy options;
3. To secure clean and sustainable energy sources as significant portions of community energy supply if selected by member communities;
4. To include in generation supply purchases investments in local energy efficiency investments;
5. To provide, on a non-discriminatory basis, an option for aggregation of all customers who qualify under the PUCO’s rules and who SOPEC and its Supplier have elected to serve;
6. To allow the eligible customers who do not wish to participate to opt-out of the Opt-Out Aggregation Program;
7. To allow customers in member communities to opt-in to an Opt-In Aggregation Program upon providing affirmative consent
8. To ensure that Suppliers provide quality, reliable service and customer service;
9. To utilize and encourage renewable energy development if and to the extent practicable through contract provisions and voluntary programs;
10. To include, to the extent possible, government accounts into the aggregation;
11. To advance community economic and energy development goals; and
12. To utilize local government powers and authorities to achieve these goals.

The Aggregation Program involves the acquisition of competitive retail power supply. Distribution services (metering, billing, maintenance of the transmission and distribution system) will continue as a function of the local utility; but SOPEC may request Supplier(s) to take on billing responsibilities for customers participating in energy efficiency or distributed generation programs implemented by Supplier(s). The local utility will continue to own, furnish, install, calibrate, test, and maintain all meters and associated equipment used for customer billing and retail energy settlement purposes. The local utility shall be the “provider of last resort” for customers not participating in the Aggregation Program who have not elected to take service from another competitive supplier.

SOPEC will not assume title to electric generation. It will not buy and resell electric generation to the participants of the program. Instead, SOPEC will negotiate a contract with Supplier(s) to provide electric supply to the members of the aggregation program. Billing and scheduling of electric loads shall be handled by the Supplier or local utility.

IV. Rates

Under PUCO orders, the local distribution company assigns the customer classification and corresponding character of service and associated regulated rates. These rates include a monthly customer charge, a distribution charge, a transmission charge, and an access charge. Although SOPEC may participate in regulatory proceedings and represent the interests of customers regarding these regulated rates, it will not assign or alter existing customer classifications without the approval of the PUCO.

The focus of the Aggregation Program, as noted above, will be acquisition of competitive prices and terms for power supply. The prices will be set through a competitive request for proposals and contract and negotiation process, and will be indicated on customers' bills as the "generation charge." Ohio law requires that a government aggregator separately price competitive retail electric services and that the prices be itemized on the bill of a customer or otherwise disclosed to the customer. The generation charge for each customer class, or any customer grouping by load factor or other appropriate pricing category, is expected to be lower than the utility's standard offer generation charge. All Supplier charges to the customer will be fully and prominently disclosed under the notification process, which is discussed further below.

V. Steps for Communities during the Aggregation Program Process

The process of establishing government aggregation involves a multi-step public process undertaken by the member communities or jointly through SOPEC on their behalf. The steps to authorize opt-out and opt-in aggregations are the same, except where noted below:

1. SOPEC shall develop and issue Request for Proposals ("RFPs") that incorporate and address all of the goals expressed in this Plan;
2. Competitive retail electric suppliers ("Supplier(s)") will respond to RFPs; SOPEC and its agents will engage in direct negotiations with Suppliers;
3. SOPEC shall select Supplier(s) and execute one or more supply contracts with Supplier(s);
4. The local distribution utility for each member community shall supply its electronic list of eligible customers for those communities;
5. For Opt-Out Aggregation only:
 - a) Supplier(s) will acquire an electronic list of eligible customers in member communities from the local distribution utility (this information must include applicable meter numbers and other appropriate codes);
 - b) SOPEC and selected Supplier(s) will notify customers of the opt-out process via U.S. mail utilizing the electronic customer list of addresses;
 - c) SOPEC Supplier(s) will revise the electronic customer list to remove responding opt-out customers from the list;
 - d) Supplier(s) will transmit the revised electronic customer list back to the distribution utility for customer transfer;

- e) The distribution utility will complete the administrative transfer of participating customers (via revised electronic list) to SOPEC Supplier(s); and
 - f) Participating customers on all billing cycles will be enrolled with the selected Supplier with the beginning of a new billing cycle.
6. For the Opt-In Aggregation Program only:
 - a) SOPEC and Supplier will market and solicit customers within the SOPEC member communities;
 - b) Supplier will enroll customers in the Opt-In Aggregation Program by obtaining their affirmative consent directly (in person, by mail or facsimile), telephonically or electronically in accordance with the PUCO's rules and the applicable electric distribution utility's tariff.
 7. The appropriate distribution utility for each member community will complete the administrative transfer of participating customers to the Supplier;
 8. SOPEC's Supplier will ensure the firm delivery of electric supply based on the terms and conditions of the supply contract with SOPEC;
 9. SOPEC and legal and technical advisors will monitor contract for compliance; and
 10. SOPEC will act to protect the interests of member communities.

VI. Participation in the Aggregation Program; Endorsement Program

Opt-Out Aggregation. For purposes of an Opt-Out Aggregation Program, an "eligible customer" constitutes a customer eligible under utility or PUCO rules and which SOPEC and its Supplier have elected to serve. Customers that shall not be included in the Opt-Out Aggregation Program pursuant to utility or PUCO rules include the following:

- A customer located in the certified territory of a non-profit electric supplier;
- A customer served by transmission or distribution facilities of a municipal electric utility;
- A customer that affirmatively chooses to be included on the PUCO's "do not aggregate" list;
- A "mercantile customer" (defined as a commercial or industrial customer that consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states) that fails to affirmatively elect to participate in an aggregation program;
- A customer already in contract with another competitive retail electric service supplier;
- A customer that has opted out of the governmental aggregation program;

- A customer enrolled in the percentage of income payment plan (“PIPP”);
- A customer that has a special arrangement with the distribution utility; and
- A customer not located within the boundaries of the governmental aggregator’s member communities.

Eligible customers shall be notified of the Opt-Out Aggregation Program and terms and conditions of participation prior to initiation of services and be provided an opportunity to “opt-out” at no cost during a 21-day period specified in the terms and conditions of the supply contract(s). Customers may be offered a program electric supply product and one or more optional supply products through the opt-out notice. If options are provided, the customer may decline all products by opting-out of the Opt-Out Aggregation Program. Customers that do not choose to opt-out will be automatically enrolled in the program product, unless they make arrangements with the Supplier, as specified in the opt-out notice, to take one of the optional supply products.

During this 21-day opt-out period customers also may choose another competing supplier, or receive service from their local distribution company. Participating customers will be given the opportunity at least every three years after the initiation of service to opt-out of the Opt-Out Aggregation Program without interruption of their current service, or payment of a penalty or switching fee. In addition, participating customers can leave the Opt-Out Aggregation Program at any time without being subject to early termination fees. These participating customers can leave the Opt-Out Aggregation Program early in accordance with the terms and conditions of their supply contracts.

Customers who move to a SOPEC member community (including those who move from another SOPEC member community), and are considered by the distribution utility to be new electric customers, may participate in the Opt-Out Aggregation Program at the existing price and terms offered for that customer class, or other terms specified under the supply contract(s). Such new electric customers can also choose to opt-out of the Opt-Out Aggregation Program at no charge during the initial 21-day period after the postmark date on the opt-out notice and at subsequent opt-out periods of at least every three years.

Opt-In Aggregation. Supplier(s) and SOPEC may contact customers in SOPEC member communities regarding the opportunity to participate in the Opt-In Aggregation Program, or customers may contact the Supplier(s) regarding such opportunities. Supplier(s), with SOPEC’s consent, will determine the terms and conditions of service, as well as the customers’ rates, subject to written policies mutually agreed upon by the SOPEC and Supplier(s). For purposes of the Opt-In Aggregation Program, customers are enrolled by obtaining their affirmative consent directly (in person, by mail or facsimile), telephonically or electronically in accordance with the PUCO’s rules and the electric distribution utility’s tariff. Participating customers who terminate their contracts with the supplier prior to their contracts’ expiration may be subject to an early termination fee which will be described in their supply contract, if applicable.

Endorsement Program. SOPEC also may initiate an Endorsement Program whereby it may endorse any competitive retail electric service supplier to offer within SOPEC’s member

communities or otherwise to a SOPEC Member or non-Member products that are not included in the Aggregation Program.

VII. Notification of Opt-Out Aggregation Program Customers

Prior to initiation of Opt-Out Aggregation Program service, all opt-out eligible customers shall be notified of the opt-out terms. The process of notification shall be as follows:

1. A separate mailing
2. Newspaper notices
3. Public service announcements
4. Posting of prominent notice in the local government office building in each member community

Prior to enrollment in the Opt-Out Aggregation Program, notification shall be mailed in a timely manner for receipt by customers prior to their start of service day. The opt-out period is 21 days. The notification shall include the following elements:

1. A summary of all actions taken by SOPEC to authorize the Aggregation Program;
2. A description of the services offered by the Opt-Out Aggregation Program
3. A statement informing customers of their right to opt-out of the Opt-Out Aggregation Program at least every three years, without interruption of their current service, or payment of a penalty or switching fee;
4. A statement indicating that any customer returning to the distribution utility after commencement of the Opt-Out Aggregation Program may pay the market price for power;
5. A statement informing customers that returning to the distribution utility may not result in that customer being served under the same rates, terms, and conditions as other customers served by the distribution utility;
6. An itemized list and explanation of all fees and charges not incorporated in the base Opt-Out Aggregation Program rates but that will be charged for participation in the Opt-Out Aggregation Program if any;
7. Disclosure of the dates covered by the Opt-Out Aggregation Program, including the estimated start date;
8. Disclosure of any credit and/or deposit requirements;
9. Disclosure of any limitations or conditions on customer acceptance into the Opt-Out Aggregation Program;
10. If applicable, inform customers whether SOPEC elected in the best interest of the Aggregation Program not to receive standby service from the electric utility under an approved electric security plan, and inform customers that non-standard service offer rates and conditions may apply if the customer returns to the electric utility after the opt-out period;

11. A description of the opt-out process and statement that the opt-out period will last for 21 days from the date of the postmark on the written notice;
12. A customer-friendly opt-out form (e.g., a postcard) to return to SOPEC or Supplier indicating whether the customer has opted out of the Opt-Out Aggregation Program.
13. A toll free phone number that customers can call to opt-out of the Opt-Out Aggregation Program.
14. Inform customers that they must return the completed opt-out form to the Supplier(s) or contact the Supplier(s) via telephone within the 21-day opt-out period to opt-out.
15. Inform customers that they shall be automatically included in the Opt-Out Aggregation Program if they do not return the opt-out form or do not call the Supplier within the 21-day opt-out period.
16. Inform customers in the terms and conditions of their supply contracts that SOPEC will not charge any early termination fees.
17. All charges to be made and a comparison of the primary terms of SOPEC's selected contract compared to the Standard Offer; and
18. Information about eligible energy efficiency and distributed energy customer options.

Customers that do not return the opt-out form within 21 days or do not call the Supplier within the 21-day opt-out period to opt-out shall be automatically included in the Opt-Out Aggregation Program.

Eligible customers who relocate to a SOPEC member community shall be included in the Opt-Out Aggregation Program, subject to their opportunity to opt-out. The selected Supplier(s) shall provide standard opt-out notification materials to customers who have relocated to member communities, or customers who otherwise are eligible to join the Opt-Out Aggregation Program. The new customer may participate in the Opt-Out Aggregation Program at the existing price and terms offered for that customer class. Any such new or otherwise eligible electric customer can also choose to opt-out of the Opt-Out Aggregation Program at no charge during the opt-out period. At least every three years, customers may be permitted to opt-out of the Opt-Out Aggregation Program at no fee.

Consistent with the requirements of Ohio law and the regulations of the PUCO, termination of service may take place for non-payment of bills. Customers whose power supply is terminated by a selected Supplier will receive electric supply from their local distribution company. Customers may be considered for re-enrollment in the Opt-Out Aggregation Program once they have met the requirements of law and are current on bill payment.

VIII. The City of Athens, Ohio Carbon Fee

Pursuant to the #3 Advisory Election of Athens City on May 8, 2018 ("Advisory Election"), the voters of the City of Athens, Ohio granted SOPEC the authority to charge a 2 mills retail carbon fee for each kilowatt hour of electric consumption used by SOPEC retail electric customers in the City of Athens, Ohio (such fee, the "Carbon Fee"). The Advisory Election also authorized SOPEC to use all Carbon Fee revenues to fund local public solar projects. All

SOPEC retail electric customers within the City of Athens shall automatically pay the Carbon Fee, except for those customers who elect to opt out of payment of the Carbon Fee. SOPEC's supplier shall collect the Carbon Fee from participating customers enrolled in the Program in the jurisdiction of the City of Athens who have not elected to opt out of the Carbon Fee.

All Carbon Fee revenues shall be used for the purposes of promoting and supporting local solar projects. SOPEC, in its sole discretion, shall determine how the Carbon Fee revenues shall be distributed to proposed local solar projects.

IX. Customer Service

Regarding all issues of customer protection (including provisions relating to slamming and blocking), SOPEC will ensure that the selected Supplier comply all statutes, rules and regulations currently in place and as may be amended from time to time. SOPEC will provide on-going customer education in member communities through public service announcements, posting of information, media press releases, advertising, and direct mailing depending on the subject and appropriate venue. SOPEC will also assist member communities with all required notifications, information, and public hearings.

SOPEC will ensure that customers are provided with adequate, accurate and understandable pricing and terms and conditions of service, including any fees, opt-out opportunities, including the conditions under which a customer may rescind a contract without penalty.

Supplier shall utilize the billing services of the local distribution company to render timely billings to each participating customer; except where bills will be directly managed by the Supplier for the purposes of providing energy efficiency, distributed generation or other options as specified under contract.

All bills shall comply with PUCO rules, regulations, and requirements regarding the essential components and formats. Credit and collection processes concerning billing will remain the sole responsibility of the selected Supplier and the local distribution company as provided by state law. Under no circumstances shall SOPEC have any responsibility for payment of any bills.

Unless otherwise specified in customers' supply contracts, all billing shall be based on the meter readings generated by meters of the distribution company at the customer's facilities. Customer bills shall be rendered monthly. Customers are required to remit and comply with the payment terms of the distribution company and/or the Supplier. Billing may take place through the distribution company at the Supplier's option. In the event that necessary billing data is not received from the distribution company in time to prepare monthly bills, the Supplier reserves the right to issue a bill based on an estimate of the participating customer's usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

X. Customer Protections

The following customer protection provisions are anticipated to be contained in customers' contracts with the Supplier(s):

1. Title to and risk of loss with respect to the electric energy will transfer from the Supplier to participating customers at the Point-of-Sale, which is the customer's side of the meter.

2. Energy delivered pursuant to the customer's supply contract will begin on the first meter reading date following the scheduled initiation of service date for each rate class or customer group, or individual customer as described in the customer supply contract, or as soon as necessary arrangements can be made with the distribution company thereafter and will end on the last meter reading date prior to the expiration date. The Supplier has the right to request a "special" meter reading by the distribution company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading. The participating customer also has such a right, and similarly would bear the costs (if any) of such special meter reading.
3. Recognizing that electricity provided under the customer's supply contract shall be ultimately delivered by the distribution company, to the extent permitted by law, the Supplier shall not be liable for any damage to a participating customer's equipment or facilities, or any economic losses, resulting directly or indirectly from any service interruption, power outage, voltage or amperage fluctuations, discontinuance of service, reversal of service, irregular service or similar problems beyond the Supplier's reasonable control. To the extent permitted by law, except as expressly stated in the supply contract, the Supplier will make no representation or warranty, express or implied (including warranty of merchantability or of fitness for a particular purpose), with respect to the provision of services and electric energy.
4. Given the increasing interest in and need for high levels of reliability, the supply contract will help assure that participating customers in SOPEC member communities receive power supply with reliability equal to that of native load customers for the distribution company. The Supplier is providing generation and, unless provided by the utility, transmission services, and participating customers must rely upon the distribution company for regional transmission, and local transmission and distribution services for ultimate delivery of electricity where reliability problems occur. However, within the scope of electric energy supplier obligations, the Supplier shall take or adopt all reasonable steps or measures to avoid any unnecessary outages, service interruptions, capacity shortages, curtailments of power supply, voltage reductions, and any other interference or disruption of electric supply to Point-of-Delivery, and shall give the highest priority of supply to the electricity made available under the customer's supply contract consistent with the requirements of law and equivalent to network service available to native load customers.

XI. Customer Complaints

It is important that customer complaints be directed to the proper party. The selected Supplier shall ensure that each participating customer receives a printed copy of a toll-free number to call regarding service problems or billing questions. The Supplier shall refer reliability, line repair, or service interruption, and billing issues to the local distribution company. The Supplier(s) shall handle all complaints in accordance with applicable laws and regulations. Problems regarding the selected Supplier can be directed to SOPEC or the PUCO. SOPEC will continue to monitor the selected Supplier for compliance with customer protection provisions in the customer's contract with Supplier and timely resolution of customer problems. Problems regarding the selected Supplier(s) can be directed to SOPEC or the PUCO. Customers may

contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at. The Office of the Ohio Consumers' Counsel ("OCC") represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at. SOPEC can be contacted at or 740-597-7955.

At the request of SOPEC, the selected Supplier(s) shall provide a periodic summary of the number and types of customer service issues and complaints that arose to date, and the status of resolution of those issues and complaints. If such reports indicate problem in the selected Supplier's service, SOPEC will pursue timely remedial action or consider the Supplier in breach of its supply contract with SOPEC.

XII. Termination of Participation in the Opt-Out Aggregation Program

The Opt-Out Aggregation Program may be terminated for participating customers in two ways:

1. Upon the termination or expiration of the power supply contract for all member communities without any extension, renewal, or subsequent supply contract being negotiated; or
2. At the decision of an individual member community to cancel its membership in SOPEC.

In the event of termination of the Opt-Out Aggregation Program, each customer receiving power supply services under the Opt-Out Aggregation Program will receive notification of termination of the program ninety days before termination. SOPEC shall utilize appropriate processes for entering, modifying, enforcing, and terminating agreements pertinent to the Opt-Out Aggregation Program consistent with the requirements of local ordinances or resolutions, state and federal law.

XIII. Termination of Participation in the Opt-In Aggregation Program

Termination of the Opt-In Aggregation Program will be governed by the terms of individual opt-in customers' supply contracts. An individual Opt-In Aggregation Program customer who chooses to terminate participation in the Aggregation Program before the expiration of the customer's supply contract(s) may be required to pay an early termination fee, if applicable. Any obligation to pay an early termination fee, if any, will be made a part of the customer supply contract(s). Opt-In Aggregation Program Customers who move from a member community will have no penalties or early termination fees.

XIV. Organizational Structure

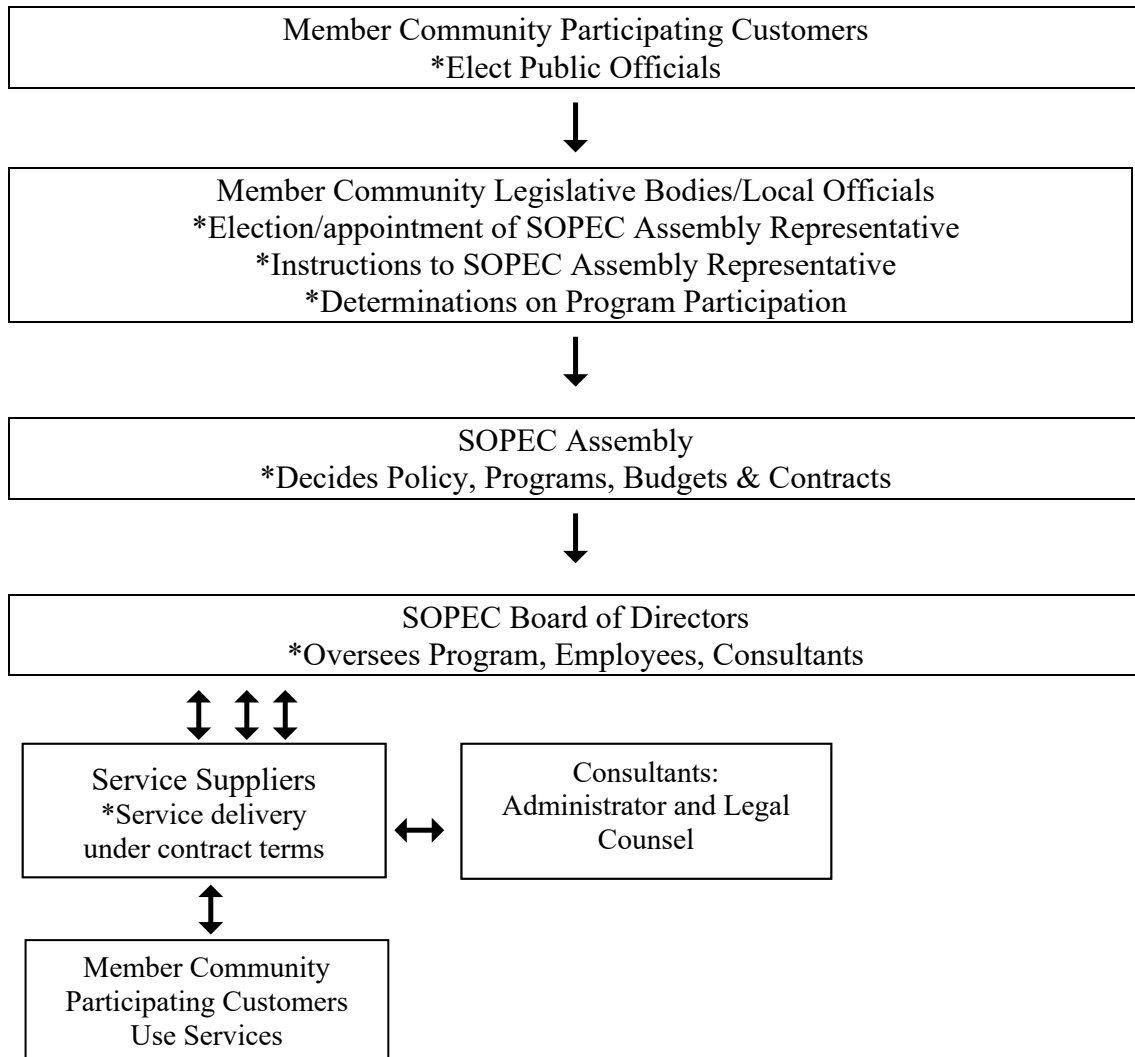
Each SOPEC member community shall have one representative in the SOPEC Assembly; which will serve as the legislative body for the organization. Members shall elect a Board of Directors. The Board of Directors of SOPEC shall oversee the implementation and operation of the Aggregation Program consistent with the provisions of the R.C. 4928.20 and the Bylaws of the SOPEC organization.

SOPEC shall act as agent for member communities to establish the Aggregation Program in accordance with law and to provide managerial, technical, and financial resources to acquire service and other guarantees sufficient to protect customers and the electric distribution utility. SOPEC may contract with service providers to achieve this purpose.

Outline of Structure:

1. Community Citizens: Customers can influence the program through elections that put in place officials that will appoint and control the assembly members.
2. Member Communities Legislative Bodies/Local Officials: Local officials may act on program and policy issues. They may individually choose to participate in additional programs of SOPEC, or terminate the community's participation in SOPEC. They may also raise issues directed to them by customers for the SOPEC Assembly and Board to address.
3. SOPEC Assembly: This is the legislative body of the organization, reviews its policies and contracts, and votes in the Board of Directors.
4. SOPEC Board of Directors: The Board of Directors shall manage the day-to-day operations of SOPEC, and may appoint agents and contract for services, and shall keep the Assembly informed of such actions.
5. Service Suppliers: Suppliers will contract with SOPEC to provide retail electric supply, energy efficiency, and local energy as part of contracts; and will report to SOPEC in carrying out these responsibilities.
6. Member Community Participating Customers: Participating customers in member communities will benefit from the professional representation and consumer protections provided under the negotiated service contracts. Individual customers may opt-out of participation and may also bring issues before their local legislative body.

***SOPEC Member Electric Aggregation Program
Organizational Structure***



XV. Certification

No governmental aggregator shall send an opt-out disclosure notice to potential customers of an aggregation prior to the governmental aggregator being certified by the commission. The certification of governmental aggregators is governed by Chapter 4901:1-21-16 of the Ohio Administrative Code (“O.A.C.”) and R.C 4928.20. R.C. 4928.20 allows municipalities, townships, and counties to join together and combine their resources for development and implementation of an electric aggregation program.

XVI. Aggregation Program Funding

SOPEC offers member communities the opportunity to gain market leverage, share resources, and reduce administrative and other costs for developing, implementing and providing oversight for the Aggregation Program. Funding for these activities is anticipated to be provided by the selected Supplier(s) with an appropriate kilowatt hour charge to all participating customers to cover costs of the program. Such funds will be collected by the Supplier and paid to SOPEC. In the event additional funding for SOPEC is required, each SOPEC member may be assessed an annual fee pursuant to the agreement establishing SOPEC. The funding will be utilized for all Aggregation Program Operations.

XVII. Modification of SOPEC’s Plan

All material modifications to the SOPEC Plan shall be approved by majority vote of the SOPEC Board of Directors and ratified by a majority vote of the SOPEC General Assembly. By adopting this Plan, SOPEC member communities agree that future modifications to the Plan resulting from changes in law or regulations may be made automatically by SOPEC without further action of the SOPEC members or General Assembly.

As adopted 10/27/2014
As amended 09/29/2017
As amended 01/23/2018
As amended 02/18/2021



MEETING DATE: April 20, 2023

AGENDA ITEM: Old Business

TO: Riverside City Council

FROM: Chris Lohr, Assistant City Manager

SUBJECT: Ordinance 23-O-825 - An ordinance approving the Plan Of Operation and Governance for the Sustainable Ohio Public Energy Council ("SOPEC") Natural Gas Aggregation Program, for the purpose of jointly establishing and implementing a Natural Gas Aggregation Program.

EXPLANATION

In November 2022, voters approved a ballot measure allowing the establishment of a City opt-out natural gas aggregation program. In order to put the aggregation program into operation, the Ohio Revised Code requires the City to adopt a Plan of Operations and Governance by ordinance. The attached ordinance adopts the Sustainable Ohio Public Entities Council (SOPEC) Natural Gas Aggregation Plan of Operation and Governance as the plan for the City of Riverside.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation

FISCAL IMPACT

None.

SOURCE OF FUNDS

N/A

EXHIBITS

N/A

AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL (“SOPEC”) NATURAL GAS AGGREGATION PROGRAM, FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING A NATURAL GAS AGGREGATION PROGRAM.

WHEREAS, this City Council of Riverside, Ohio (the “City”) previously enacted legislation authorizing the City to establish an opt-out natural gas aggregation program pursuant to Section 4928.20, Ohio Revised Code (the “Natural Gas Aggregation Program”), for the residents, businesses, and other natural gas consumers located within the City, and for that purpose, to act jointly with other village, city, township, municipal corporation, county, or other political subdivision of the State of Ohio, as permitted by law; and

WHEREAS, by joining the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council) (“SOPEC”), the City will be able to act jointly with other member political subdivisions and thereby maximize the potential benefits of natural gas deregulation through group purchasing efforts; and

WHEREAS, this City Council, pursuant to Section 4928.20, Ohio Revised Code, has held two (2) public hearings on the Plan of Operation and Governance (the “Plan”), Exhibit A, for the SOPEC Natural Gas Aggregation Program.

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

Section 1: This City Council hereby approves and adopts the Plan of Operation and Governance of the SOPEC Natural Gas Aggregation Program, Exhibit A, in the form presented to this City Council and on file with the Clerk.

Section 2: It is found and determined that all formal actions of this City Council concerning and relating to the passage of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including the City’s Codified Ordinances and Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED THIS DAY OF _____.

23-O-825

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-825 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK



**Southeast Ohio Public Energy Council
(dba Sustainable Ohio Public Energy Council)**

**Natural Gas Aggregation Program
Plan of Operation & Governance**

For Member Communities

Table of Contents

I. Overview

- A. Ohio Law
- B. Description and Objectives of the Natural Gas Aggregation Program
- C. Steps Required by Law
- D. Practical Steps and Requirements of the Competitive Market

II. Descriptions of Natural Gas Aggregation Program Goals and Operation Natural Gas Aggregation Program Goals

- A. Natural Gas Aggregation Program Goals
- B. Natural Gas Aggregation Program Operations
- C. Natural Gas Aggregation Program Funding
- D. Consumer Participation in the Opt-Out Program
- E. Consumer Participation in the Opt-In Program
- F. New Member Communities
- G. Service Termination by Supplier
- H. Termination of the SOPEC Member Natural Gas Aggregation Program
- I. Customer Care
- J. Rights and Responsibilities of Program Participants

III. Organizational Structure and Governance of the Natural Gas Aggregation Program

- A. Description of Organization and Management of Natural Gas Aggregation Program
- B. Outline of Structure
- C. Description of Program Organizational Structure
- D. Member Community Participating Customers
- E. Member Community Legislative Body
- F. SOPEC Assembly
- G. SOPEC Board of Directors
- H. Fiscal Agent, Executive Director and Staff, Legal Counsel and Consultants
- I. Service Supplier(s)
- J. Member Community Participating Consumers

Purpose of the Plan of Operation and Governance

This Natural Gas Aggregation Program Plan of Operation and Governance (“Natural Gas Plan”) has been prepared by the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council) (“SOPEC”) on behalf of its member communities in compliance with Ohio law regarding government aggregation of natural gas customers (the “Natural Gas Aggregation Program”). The Natural Gas Plan contains information on the structure, governance, operations, management, funding, and policies of the Natural Gas Aggregation Program to be utilized for participating customers and member communities.

SOPEC’s purpose in preparing this Natural Gas Plan is to describe the uniform approach to a customer Natural Gas Aggregation Program undertaken by its member communities. Through SOPEC, the member communities seek to represent customer interest in competitive markets for natural gas. SOPEC seeks to aggregate customers to negotiate the best rates available for the supply and distribution of natural gas into advance customer protection for all eligible residence schools, churches, businesses, and industries, and governmental entities. SOPEC acts as an agent for its member communities and oversees managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the natural gas distribution utility.

SOPEC’s Natural Gas Program includes an “opt-out” Natural Gas Aggregation Program (“Opt-Out Program”) and an “opt-in” Natural Gas Aggregation Program (“Opt-In Program”).

Combining customer interests of the SOPEC member communities increases leverage, resources, and buying power of participating customers in member communities. Under the Opt-Out Program and Opt-In Program, participation is voluntary for each individual customer in a member community. Under the Opt-Out Program, any individual customer will have the opportunity to decline service provided through the Natural Gas Aggregation Program and choose any natural gas supply they wish at the outset of the program and every two (2) years thereafter. Under the Opt-In Program, customers may individually enroll in the program by providing their prior consent. New member communities shall have the opportunity to join SOPEC.

The Opt-Out Natural Gas Plan was adopted after public hearings were held in accordance with Section 4929.26(C) of the Ohio Revised Code. The Opt-In Natural Gas Plan was adopted after public hearings were held in accordance with Section 4929.27(B) of the Ohio Revised Code.

I. Overview

A. Ohio Law

Ohio law enacted in 2001 allows for competitive purchase of retail natural gas supply. Section 4929.26 of the Ohio Revised Code (“R.C.”) allows municipalities, townships, and/or counties to develop governmental natural gas aggregation programs providing options for customers in those communities to join together and utilize their combined purchasing power to competitively acquire firm all-requirements retail natural gas supply. Communities undertaking development of this option are known as “government aggregators”. The law allows communities

acting as government aggregators to join together and combine their resources for development and implementation of a Natural Gas Aggregation Program.

The law contains several requirements for government aggregators. One general requirement is to develop a plan of operation and governance for the Natural Gas Aggregation Program. The plan of operation and governance is subject to approval and certification by the Public Utilities Commission of Ohio (“PUCO”). The Natural Gas Plan describes the Natural Gas Aggregation Program to be utilized for participating customers in SOPEC communities.

B. Description of the Natural Gas Aggregation Program

The Natural Gas Aggregation Program involves the acquisition of competitive retail natural gas supply. Distribution services (metering, billing, and maintenance of the gas transmission and distribution system) will continue as the function of the local distribution company. The local distribution company shall also be the “provider of last resort” for customers not participating in the Natural Gas Aggregation Program who have no other competitive supplier. The SOPEC Natural Gas Aggregation Program has an “Opt-Out” Program and an “Opt-In” Program, both of which require authorization of communities and their constituents in a public process. In the Opt-Out Program, all eligible customers will be included in the Natural Gas Aggregation Program unless they choose to “opt-out” as described in section II(D) of this Natural Gas Plan. In the “Opt-In” Program, the customer’s prior consent is required and they must “opt-in” to the Opt-In Program.

The Natural Gas Aggregation Program has been undertaken at two levels. At the local level, communities wishing to be government aggregators have authorized the opt-out Natural Gas Aggregation Program in a public process as required by law and outlined below in Section I(C) of the Natural Gas Plan. At the regional level, communities wishing to proceed jointly with a Natural Gas Aggregation Program have formed SOPEC as a regional council of governments under Chapter 167 of the Ohio Revised Code, which the communities have authorized to perform as their agent for development and implementation of the Natural Gas Aggregation Program. The operations of the Natural Gas Aggregation Program are described in Section II of the Natural Gas Plan, and the governance of the program is described in Section III of the Natural Gas Plan.

C. Steps Required by Law

The process of establishing government aggregation involves a multi-step public process undertaken by the member communities or jointly through SOPEC on their behalf:

- i.** Local legislative body passes ordinance(s) or resolution(s) authorizing Natural Gas Aggregation Program for customers;
- ii.** For the Opt-Out Program, the ordinance or resolution must authorize the local board of elections to submit the question of whether to aggregate to the electors at a special election on the day of the next primary or general election, and be submitted to the local Board of Elections not less than ninety (90) days before the day of the special election;

iii. For the Opt-Out Program, the ordinance or resolution authorizing opt-out aggregation is placed before voters at a special election, or in a referendum petition; approval of a majority of electors voting on the ordinance or resolution is required; or if by petition, signatures of not less than ten (10) percent of the total number of electors in the respective community who voted for the office of Governor in the preceding general election;

iv. Develop a plan of operation and governance and submit the plan of operation and governance to the PUCO for certification;

v. Publish notice of public hearing on the plan of operation and governance once a week for two (2) consecutive weeks before the first public hearing on the plan of operation and governance (providing a summary of the plan of operation and governance and the date, time, and location of each hearing);

vi. Hold two (2) public hearings on the initial plan of operation and governance;

vii. Adopt plan of operation and governance;

viii. For the Opt-Out Program, notify eligible customers of automatic enrollment and opt-out period prior to service under the Natural Gas Aggregation Program (notification is to state the rates, charges, and other terms and conditions of enrollment);

ix. For the Opt-Out Program, any enrolled customer participating in the Opt-Out Natural Gas Aggregation Program will have the opportunity to opt-out of the Natural Gas Aggregation Program every two (2) years, without paying a switching fee.

x. Customers may individually enroll in the Opt-In Program by providing their prior consent.

D. Practical Steps and Requirements of the Competitive Market

Practical steps and requirements of acquiring natural gas supply in the competitive market include the following activities to be undertaken by SOPEC acting as agent for member communities, and the contracted SOPEC Natural Gas Aggregation Program supplier(s) (the “Supplier(s)”):

i. Proposals submitted by Suppliers and negotiations undertaken with Suppliers by SOPEC and legal and technical advisors;

ii. SOPEC selection of Supplier(s) and execution of Supply Contract(s);

iii. For the Opt-Out Program, acquisition of electronic list of eligible customers in member communities from the natural gas distribution utility;

iv. For the Opt-Out Program, notification of opt-out process undertaken by SOPEC and selected Supplier(s) via U.S. mail and utilizing electronic customer list addresses;

v. For the Opt-Out Program, electronic customer list revised by SOPEC Supplier(s) who remove responding opt-out customers from the list;

vi. For the Opt-Out Program, revised electronic customer list transmitted back to the natural gas distribution utility for customer transfer;

vii. For the Opt-Out Program, the natural gas distribution utility completes administrative transfer of participating customers (via revised electronic list) to SOPEC Supplier(s);

viii. Firm all-requirements retail natural gas supply service initiated to participating customers based on terms and conditions of Supply Contract(s);

ix. SOPEC and legal and technical advisors monitor contract for compliance; and

x. SOPEC acts to protect the interests of participating customers in member communities.

II. Description of Natural Gas Aggregation Program Goals and Operation

A. Natural Gas Aggregation Program Goals

The SOPEC member community goals for the Natural Gas Aggregation Program are stated below. These goals guide the decisions of the SOPEC Assembly and Board of Directors:

i. To provide an option for aggregation of all eligible customers on a non-discriminatory basis;

ii. To allow those eligible customers who choose not to participate to opt-out of the Opt--Out Program or not enroll in the Opt-In Program;

iii. To acquire the best market rate available for natural gas supply;

iv. To provide customer education and enhance customer protection and options for service under contract provisions;

v. To provide managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the natural gas distribution utility;

vi. To improve quality and reliability of service;

- vii. To utilize and encourage demand-side management and other forms of energy efficiency through contract provisions and organizational policies;
- viii. To advance specific community goals that may be selected from time to time;
- ix. To provide full public accountability to customers; and
- x. To utilize local government powers and authorities to achieve these goals.

B. Natural Gas Aggregation Program Operations

The Natural Gas Aggregation Program is designed to reduce the amount participating customers pay for natural gas, and to gain other favorable economic and non-economic terms in service contracts, including financial guarantees to protect customers and the distribution utility. SOPEC shall seek fixed and/or variable energy prices for each class of customers that may be lower than the comparable price available from the local distribution company or other suppliers. Large commercial and industrial customers, due to the varying characteristics of their gas consumption, may receive individual prices from the selected Supplier(s).

As agent for its members, SOPEC does not buy and resell natural gas, but represents customer interests as a master purchasing agent to set the terms for natural gas supply and service from a competitive Supplier(s). Through a negotiation process, SOPEC develops a contract with a competitive Supplier for firm, all-requirements retail natural gas supply service. The contract is expected to be for a fixed term. SOPEC may contract with one or more Suppliers to meet the needs of participating customers in member communities.

C. Natural Gas Aggregation Program Funding

SOPEC offers member communities the opportunity to gain market leverage, share resources, and reduce administrative and other costs for developing; implementing and providing oversight for the Natural Gas Aggregation Program. Funding for these activities is anticipated to be provided by the selected Supplier(s) with an appropriate per mcf (or ccf) SOPEC administrative fee, depending on the unit that is used by the gas distribution company that serves the customer, to cover costs of the Natural Gas Aggregation Program. Such funds will be collected by the Supplier(s) and paid to SOPEC. In the event additional funding for SOPEC is required, each SOPEC member may be assessed an annual fee pursuant to the agreement establishing SOPEC. The funding will be utilized for all Natural Gas Aggregation Program operations.

D. Consumer Participation in the Opt-Out Program

An “eligible customer” shall be a customer that is eligible to participate in a governmental aggregation in accordance with R.C. 4929.26 and R.C. 4929.27 and Rule 4901:1-28-01 of the Ohio Administrative Code. Persons ineligible for opt-out governmental aggregation include:

- A person that is both a distribution service customer and a mercantile customer at the start of the service to the governmental aggregation;
- A mercantile customer that becomes a distribution service customer after the start of service to the governmental aggregation;
- A person under contract with a retail natural gas supplier in effect on the effective date of the ordinance or resolution authorizing opt-out aggregation; and
- A person already being supplied with natural gas commodity sales service as part of another governmental aggregation.

For the Opt-Out Program, eligible customers shall be notified of the Natural Gas Aggregation Program and terms and conditions of participation prior to initiation of services and be provided an opportunity to “opt-out” at no cost during a 21-day period specified in the terms and conditions of the Supply Contract(s). During this 21-day opt-out period, customers may choose another competing supplier, or receive service from their local distribution company. Participating customers will be given the opportunity every two (2) years after the initiation of service to opt-out. Participating customers who choose to opt-out of the Natural Gas Aggregation Program after the initial 21-day period, but prior to the next 2-year opt-out opportunity, may face an exit charge which will be described in the opt-out notification.

Consumers who move to a SOPEC member community (including those who move from another SOPEC member community), and are considered by the local distribution company to be new eligible gas customers, may participate in the Natural Gas Aggregation Program at the existing price and terms offered for that customer class, or other terms specified under the Supply Contract. For the Opt-Out Program, such new gas customer can also choose to opt-out of the Natural Gas Aggregation Program at no charge during the initial 21-day period after the relocation and at subsequent opt-out periods every two (2) years.

New member communities may also join the SOPEC Natural Gas Aggregation Program under prices and terms contained in an existing Supply Contract, however such prices may be higher than for those communities which have joined at the outset of the contract.

i. Notification of Consumers - Prior to Initiation of Service.

For the Opt-Out Program, prior to initiation of service, all eligible customers shall be notified of the opt-out terms. The process of notification shall be as follows:

- a. a separate mailing;
- b. newspaper notices;
- c. public service announcements; and

d. posting of prominent notice in the local government office building in each member community.

ii. Notification of Consumers - Prior to Enrollment.

For the Opt-Out Program, prior to enrollment, the notification shall be mailed in a timely manner for receipt by customers prior to their start-of-service day. The opt-out period shall be twenty-one (21) days from the notice's postmarked date (or, if none, the mailing date). The notification shall include:

a. A summary of the actions that SOPEC took to authorize the Natural Gas Aggregation Plan;

b. A description of the services that SOPEC will provide under the Natural Gas Aggregation Plan;

c. Disclosure of the price that SOPEC will charge customers for competitive retail natural gas service;

d. An itemized list and explanation of all fees and charges that are not incorporated into the rates and that the governmental aggregator will charge the customer for participating in the aggregation, including any applicable switching fees or early termination penalties;

e. Disclosure of the dates covered by the aggregation, including an estimated service commencement date and notice that the customer may opt-out of the aggregation at least every two (2) years without penalty;

f. Disclosure of credit and/or deposit requirements, if any;

g. Disclosure of limitations or conditions on customer acceptance into the aggregation, if any;

h. A description of the opt-out process and statement that the opt-out period will last for twenty-one (21) days from the date of the postmark on the written notice;

i. A local or toll-free telephone number that customers can call with questions regarding the formation or operation of the aggregation, including associated calling hours;

j. Language on the front cover of the envelope or postcard stating: "Important natural gas aggregation information"; and

k. A consumer-friendly form to check of sign, and return within twenty-one (21) days to indicate a decision to opt-out of the Aggregation Program.

Consumers who do not return the opt-out form shall be automatically included in the Opt-Out Program.

iii. Activation of Customer Service in a Member Community

For the Opt-Out Program, the process of activation is an administrative function with four (4) parts:

- a. Data preparation:** On an electronic list consistent with Electronic Data Interface protocols, the natural gas distribution utility will identify all eligible customers in the member community;
- b. Data verification:** To the extent needed, if not inherent in data preparation, the natural gas distribution utility shall check customer meter numbers and other codes to verify proper eligible customer identification;
- c. List Adjustment:** Following the opt-out process, the selected Supplier(s) shall remove all customers who choose to opt-out from the electronic customer list; and
- d. Automatic Enrollment:** The revised electronic customer list shall be transmitted back to the natural gas distribution utility for customer transfer to the selected Supplier(s).

For the Opt-Out Program, eligible customers on all billing cycles will be enrolled with the selected Supplier(s) consistent with the beginning of a new billing cycle. Service under the selected Supplier(s) shall begin at the start of the billing period following transfer. Service starts that do not match the billing cycle may be requested by a customer, but may incur additional charges from the local distribution company.

iv. New Individual Customers

For the Opt-Out Program, eligible customers who relocate to a SOPEC member community shall be included in the Natural Gas Aggregation Program, subject to their opportunity to opt-out. New customers shall be informed of this opt-out opportunity by the natural gas distribution utility when they sign-up for new service. The natural gas distribution utility shall notify the selected Supplier(s) of the new request for service, and the selected Supplier(s) shall provide standard opt-out notification materials to the new customer.

- a.** Eligible customers who relocate within SOPEC and are not assigned a new account number by the incumbent natural gas company shall maintain the rate that the customer was charged at the previous location or, if the rate at the new location is higher than the customer's previous location, the customer shall have the right to opt-out of the aggregation without penalty.

b. An eligible customer who had previously opted out of the aggregation may subsequently be permitted to join the National Gas Aggregation under prices and terms contained in an existing Supply Contract, however such prices may be higher than for those customers who have joined at the outset of the contract.

v. Customer Switching Fee

For the Opt-Out Program, the selected Supplier(s) shall be responsible for payment of any customer switching fee imposed by the incumbent natural gas distribution utility.

vi. Individual Customer Termination of Participation

For the Opt-Out Program, in addition to the opportunity to opt-out of the Natural Gas Aggregation Program prior to start up of service, an individual customer will be given an opportunity to opt-out at no charge every two (2) years after start up of service. Consumers who move from a member community will have no penalties or exit fees. However, an individual customer who chooses to opt-out during the period between start-up and the two (2) year opportunity to opt-out may be required to pay an exit fee.

E. Consumer Participation in the Opt-In Program

An “eligible customer” shall be a customer that is eligible to participate in the Opt-In Program in accordance with R.C. 4929.27 of the Ohio Administrative Code. Persons ineligible for opt-in governmental aggregation include:

- A person under contract with a retail natural gas supplier in effect on the effective date of the ordinance or resolution authorizing opt-in aggregation; and
- A person already being supplied with natural gas commodity sales service as part of another governmental aggregation.

In obtaining customers’ prior consent to join the Opt-In Program, SOPEC will follow the PUCO’s then-applicable rules for marketing, soliciting, and enrolling individual customers to service contracts that comply with the rules for contract disclosure.

i. Customer Switching Fee

For the Opt-In Program, the selected Supplier(s) shall be responsible for payment of any customer switching fee imposed by the incumbent natural gas distribution utility.

ii. Individual Customer Termination of Participation

For the Opt-In Program, consumers who move from a member community will have no penalties or exit fees. However, an individual customer who chooses to leave the Opt-In Program prior to its expiration date may be required to pay an exit fee.

F. New Member Communities

New member communities may also join the SOPEC Natural Gas Aggregation Program under prices and terms contained in an existing Supply Contract, however such prices may be higher than for those communities which have joined at the outset of the contract.

G. Service Termination by Supplier

Consistent with the requirements of Ohio law and the regulations of the PUCO, termination of service may take place for non-payment of bills. Customers whose natural gas supply is terminated by a selected Supplier will receive natural gas supply from their local distribution company, unless the local distribution company has also met state requirements to terminate service. Customers may be considered for re-enrollment in the Natural Gas Aggregation Program once they have met the requirements of law and are current on bill payment.

H. Termination of the SOPEC Member Natural Gas Aggregation Program

The SOPEC Natural Gas Aggregation Program may be terminated for participating customers in two (2) ways:

- i.** Upon the termination or expiration of the natural gas supply contract for all member communities without any extension, renewal, or subsequent supply contract being negotiated; or
- ii.** At the decision of an individual member community to withdraw from its membership in SOPEC.

In any event of termination, each individual customer receiving natural gas supply services under the Natural Gas Aggregation Program will receive notification of termination of the program ninety (90) days prior to such termination. Customers who are terminated from the Natural Gas Aggregation Program shall receive natural gas supply from the local distribution company unless they choose an alternative supplier.

SOPEC shall utilize appropriate processes for entering, modifying, enforcing, and terminating agreements pertinent to the Natural Gas Aggregation Program consistent with the requirements of local ordinances or resolutions, state and federal law. Other agreements shall be entered, modified, or terminated in compliance with law and according to the express provisions of any negotiated agreements.

I. Customer Care

i. Universal Access

“Universal access” is a term derived from the traditional regulated utility environment in which all customers desiring service receive that service. For the purpose of the SOPEC Natural Gas Aggregation Program, this will mean that all eligible customers within the borders of a member community, and all new eligible customers in a member community, shall be eligible for service from the contracted supplier under the terms and conditions of the Supply Contract.

ii. Rates

Under PUCO orders, the local distribution company assigns the customer classification and corresponding character of service and associated regulated rates. These rates include a monthly customer charge, a distribution charge, and other applicable charges. Although SOPEC may participate in regulatory proceedings and represent the interests of customers regarding these regulated rates, it will not assign or alter existing customer classifications without the approval of the PUCO.

The focus of the SOPEC Natural Gas Aggregation Program, as noted above, will be acquisition of competitive prices and terms for natural gas supply. The prices will be set through a contract negotiation process, and will be indicated on the customer bill as the “natural gas supply charge”. The natural gas supply charge for each customer class, or any customer grouping by load factor or other appropriate pricing category, is expected to be competitive with the local gas utility’s and other suppliers’ natural gas commodity rate(s). All Supplier charges to the customer will be fully and prominently disclosed under the notification process.

iii. Costs To Consumers

Consumer bills will reflect all charges for the administrative costs of the Natural Gas Aggregation Program, if applicable. As noted in section 2.3, the program is expected to be funded by a per mcf (or ccf) administrative fee, depending on the unit that is used by the gas distribution company that serves the customer. The fee will be provided by the Supplier(s) to SOPEC. This charge will cover program costs for any necessary technical or legal assistance for the Natural Gas Aggregation Program.

Additional charges may be levied by the selected Supplier(s), the local distribution company, and PUCO-approved local distribution tariffs.

iv. Consumer Protections

Regarding all issues of customer protection (including provisions relating to slamming and blocking), SOPEC will ensure that the selected Supplier(s) complies with all statutes, rules and regulations currently in place and as may be amended from time to time. SOPEC will provide on-going customer education in member communities through public service announcements, posting of information, media press releases, advertising, and direct mailing depending upon the subject and appropriate venue. SOPEC will also

assist member communities with all required notifications, information, and public hearings.

a. Contract Disclosure

SOPEC will ensure that customers are provided with adequate, accurate and understandable pricing and terms and conditions of service, including any switching fees, opt-out opportunities, including the conditions under which a customer may rescind a contract without penalty.

b. Billing and Service Assistance

The selected Supplier(s) shall utilize the billing services of the local distribution company to render timely billings to each participating customer. Separate bills from the selected Supplier(s) and the local distribution company may also be requested for large commercial and industrial customers, but such separate bills may incur an additional charge from the selected Supplier(s).

All bills at a minimum shall include the following information:

1. price and total billing units for the billing period and historical annual usage;
2. to the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy;
3. identification of the supplier of each service;
4. statement of where and how payment may be made; and
5. a toll-free or local customer assistance and complaint number for the Supplier, as well as a customer assistance telephone numbers for state agencies, such as the PUCO, and the Office of the Consumers' Counsel, with the available hours noted.

Credit, deposit, and collection processes concerning billing will remain the sole responsibility of the selected Supplier(s) and the local distribution company as provided by state law. Under no circumstances shall SOPEC have any responsibility for payment of any bills.

Unless otherwise specified in the Supply Contract, all billing shall be based on the meter readings generated by meters of the distribution company at the customer facilities. Consumer bills shall be rendered monthly. Customers are required to remit and comply with the payment terms of the natural gas distribution utility and/or the Supplier(s). Billing may take place through the distribution company at the Supplier's option. In the event that necessary billing data is not

received from the distribution company in time to prepare monthly bills, the Supplier reserves the right to issue a bill based on an estimate of the participating customer's usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

c. Standard Terms and Conditions Pertaining to Individual Account Service

The following customer protection provisions are anticipated to be contained in a Supply Contract:

1. Title: Title to and risk of loss with respect to the natural gas will transfer from Supplier(s) to participating customers at the point-of-sale which is the customer side of the meter.

2. Initiation of Supply Service: Natural Gas deliveries pursuant to the Supply Contract will begin on the first meter reading date following the scheduled initiation of service date for each rate class or customer group, or individual customer as described in the Supply Contract, or as soon as necessary arrangements can be made with the distribution company thereafter and will end on the last meter reading date prior to the expiration date. The Supplier has the right to request a "special" meter reading by the distribution company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading. The participating customer also has such a right, and similarly would bear the costs (if any) of such special meter reading.

3. Standard Limitation of Liability: Recognizing that natural gas provided under the Supply Contract shall be ultimately delivered by the distribution company, to the extent permitted by law, the Supplier shall not be liable for any damage to a participating customer's equipment or facilities, or any economic losses, resulting directly or indirectly from any service interruption, discontinuance of service, irregular service or similar problems beyond the Supplier's reasonable control. To the extent permitted by law, except as expressly stated in the Supply Contract, the Supplier will make no representation or warranty, express or implied (including warranty of merchantability or of fitness for a particular purpose), with respect to the provision of services and natural gas.

4. Service Reliability and Related Supplier Obligations: Given the increasing interest in and need for high levels of reliability, the Supply Contract will help assure that participating customers in SOPEC member communities receive natural gas supply with reliability equal to that of firm customers of the distribution company. The Supplier is providing metered natural gas commodity services, and participating customers must rely upon the distribution company for ultimate delivery of

gas. However, within the scope of natural gas supplier obligations, the Supplier shall take or adopt all reasonable steps or measures to avoid any unnecessary service interruptions, curtailments of natural gas supply, and any other interference or disruption of natural gas supply to the Point-of-Delivery. In addition to language to be included in the Supply Contract, SOPEC will help to assure reliability through participation in proceedings related to the natural gas distribution utility's regulated and distribution services and through direct discussions with the natural gas distribution utility concerning specific or general problems related to quality and reliability of distribution service.

5. Marketing and Solicitation Limitations: Participating customers will be protected from unwanted marketing solicitations by: (a) a prohibition that the selected Supplier(s) may not sell or exchange the customer's name/address/or other identifying information to third parties without SOPEC's prior written consent; (b) an opportunity for each participating customer to check off a box rejecting additional mail solicitations from the Supplier (if the solicitation is via U S mail or other printed means) or an opportunity to request removal from a telephone solicitation list.

d. Protection of Consumers and Risk Associated with Competitive Market

In a competitive market, it is possible that the failure of a natural gas supplier to deliver service may result in the need for customers to acquire alternative natural gas supply, or for customers to receive gas at market prices. SOPEC will seek to minimize this risk by recommending only reputable Suppliers which demonstrate financial strength and the highest probability of reliable service. SOPEC also intends to include provisions in its contract with selected Supplier(s) that will protect customers against risks or problems with natural gas supply service.

e. Resolution of Consumer Complaints

It is important that customer complaints be directed to the proper party. The selected Supplier(s) shall ensure that each participating customer receives a printed copy of a toll-free number to call regarding service problems or billing questions. The Supplier shall refer reliability, repair, or service interruption, and billing issues to the local distribution company. The Supplier shall handle all complaints in accordance with applicable laws and regulations. Problems regarding the selected Supplier(s) can be directed to SOPEC or the PUCO. Customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov. Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00

p.m. weekdays, or at www.pickocc.org. Customers may also visit SOPEC's website at www.sopec-oh.gov. As noted below, SOPEC will continue to monitor the selected Supplier(s) for compliance with customer protection provisions in the Supply Contract and timely resolution of customer problems.

f. Periodic Reports on Consumer Complaints

SOPEC shall act to monitor and enforce customer protection provisions included in the Supply Contract. At the request of SOPEC, the selected Supplier(s) shall provide a periodic summary of the number and types of customer service issues and complaints that arose to date, and the status of resolution of those issues and complaints. If such reports indicate problems in the selected Supplier's service, SOPEC will pursue timely remedial action, or consider the Supplier in breach of Supply Contract terms.

g. Modifications to SOPEC's Plan

All material modifications to this Plan shall be approved by majority vote of the SOPEC Board of Directors and ratified by a majority vote of the SOPEC Assembly. By adopting this Plan, SOPEC member communities agree that future modifications to the Plan resulting from changes in law or regulations may be made by SOPEC without further action by the Assembly or Board of Directors.

J. Rights and Responsibilities of Program Participants

i. Rights

All Natural Gas Aggregation Program participants shall enjoy the protections of customer law as they currently exist or as they may be amended from time to time. Under protocols developed by the PUCO, problems related to billing or service shall be directed to the appropriate parties: the distribution utility or the selected Supplier(s).

ii. Responsibilities

All Natural Gas Aggregation Program participants shall meet all standards and responsibilities required by the PUCO, including timely payment of billings and access to essential metering and other equipment to carry out utility operations.

a. Taxes

The selected Supplier(s) shall include on the participating customer's bill and remit to the appropriate authority all sales, gross receipts, or excise or similar taxes imposed with respect to the consumption of natural gas. Participating customers shall be responsible for all taxes (except for taxes on the Supplier's income). Participating customers shall be responsible for identifying and requesting

any applicable exemption from the collection of any tax by providing appropriate documentation to the Supplier.

III. Organizational Structure and Governance of the Natural Gas Aggregation Program

A. Description of Organization and Management of Natural Gas Aggregation Program

Each SOPEC member community has one representative on the SOPEC Assembly, which serves as the legislative body for the organization. Assembly members from each county represented in the membership of SOPEC elect a member to the Board of Directors.

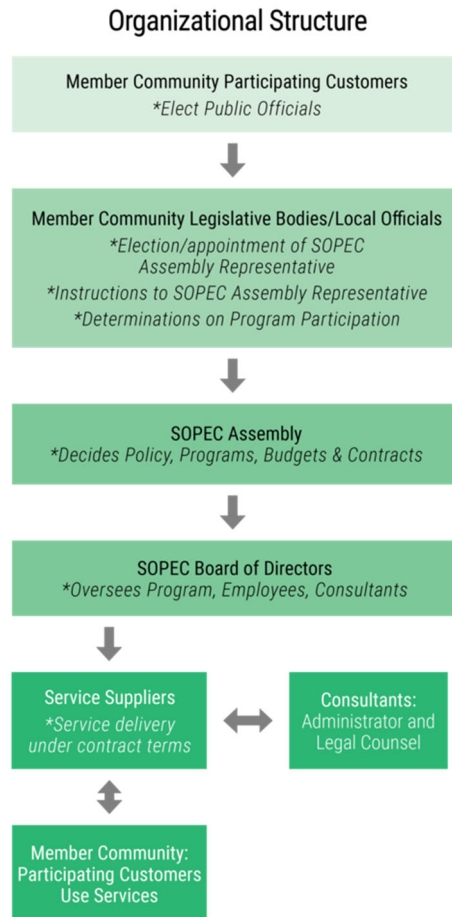
SOPEC acts as agent for member communities to establish the Natural Gas Aggregation Program in accordance with law and to provide managerial, technical, and financial resources to acquire service and financial guarantees sufficient to protect customers and the electric distribution utility. SOPEC has developed a firmly based organization and employed legal and technical assistance from experienced and highly reputable firms to undertake service acquisition.

SOPEC's outside legal counsel, Dickinson Wright PLLC, handles the legal needs of energy producers, energy customers in both the public and the private sector, as well as new energy marketers, providing legal services ranging from representation in regulatory proceedings, to negotiating new contractual relationships, to handling the acquisition, disposition and financing of energy businesses and facilities. Dickinson Wright PLLC has advised numerous Ohio political subdivisions in connection with the deregulation of energy markets in Ohio, and developed particular expertise in issues facing governmental aggregators.

The Board of Directors of SOPEC oversees the implementation and operation of the Natural Gas Aggregation Program consistent with the provisions of the Ohio Revised Code and the Bylaws of the SOPEC organization. The Board of Directors, with the approval of the Assembly, may also develop additional programs for members. The organization may employ a Fiscal Agent and Executive Director and staff, if such are determined to be necessary by the Board, and sufficient budget has been provided.

B. Outline of Structure

The following chart represents the organizational structure for the SOPEC Natural Gas Aggregation Program as indicated in the organizational chart. The function of each level is described below.



C. Description of Program Organizational Structure

D. Member Community Participating Customers

Consumers can influence their respective community and its functions. They can elect candidates to local legislative boards who may take positions regarding the government Natural Gas Aggregation Program. They can express their views to their local elected officials. They can participate in local and state meetings and hearings regarding issues related to the member community's Natural Gas Aggregation Program.

E. Member Community Legislative Body

Local officials may act on program and policy issues. They may individually choose to participate in additional programs of SOPEC, or terminate the community's participation in SOPEC. In addition, they may provide instructions to their representative on the SOPEC Assembly regarding specific policy or program decisions. They may also raise issues directed to them by customers for the SOPEC Assembly and Board to address.

F. SOPEC Assembly

The SOPEC Assembly acts as the legislative body of SOPEC including decisions on policy, budget, and other matters directed to it by the Board of Directors.

G. SOPEC Board of Directors

The SOPEC Board of Directors oversees the implementation and operation of all aspects of the Natural Gas Aggregation Program. The Board of Directors provides recommendations regarding contracts, the budget and other matters to the Assembly. It approves purchases of equipment, facilities, or services within the approved budget and employs and provides instruction to the Fiscal Agent, Executive Secretary, staff, legal counsel, and consultants.

H. Fiscal Agent, Executive Director and Staff, Legal Counsel and Consultants

The Fiscal Agent, Executive Director and staff, legal counsel and consultants act upon the instructions of the Board of Directors to carry out development and implementation of programs, contract monitoring, and reporting on program status.

I. Service Supplier(s)

Service suppliers contract with SOPEC to provide retail natural gas supply to participating customers in member communities, or other specified services. Contractors report to SOPEC and carry out services in adherence to contract provisions.

J. Member Community Participating Consumers

Participating customers in member communities will benefit from the market leverage of the group, and the professional representation and customer protections provided under the negotiated service contracts. Individual customers may opt-out of participation and may also bring issues before their local legislative body.

MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Nia Holt, Zoning Administrator

SUBJECT: Ordinance No. 23-O-826 – An ordinance amending Chapter 1109 Zoning Development Standards of the Unified Development Ordinance (UDO) of the City of Riverside, Ohio.

EXPLANATION:

The City of Dayton developed and implemented the Source Water Protection Program (SWPP) through a 1985 Memorandum of Understanding with the Ohio EPA. In 1989, Mad River Township (now the City of Riverside) became a member of the SWPP. The City of Riverside adopted the original Wellfield Protection (WP) Overlay in 2017, as part of a series of text amendments. The goal of creating the overlay district and the corresponding regulations was to protect the region's groundwater supply against contamination.

The WP Overlay covers the 1-year time of travel boundary (areas closest to the wells). The name of the overlay will be changed from *Wellfield Protection* to *Water Protection* to remain consistent with the terminology used throughout the region. The City of Dayton and Harrison Township have undertaken recent revisions to their Water Protection regulations. The proposed text amendment builds on the current regulations while modeling language from both communities and tailoring the regulations to suit the City of Riverside. The proposed revisions support the businesses located in the Source Water Protection Area while protecting the ground water. The new language also aligns with the Comprehensive Land Use Plan.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached ordinance.

FISCAL IMPACT

None

SOURCE OF FUNDS

N/A

23-O-826

AN ORDINANCE AMENDING CHAPTER 1109 ZONING DEVELOPMENT STANDARDS OF THE UNIFIED DEVELOPMENT ORDINANCES (UDO) OF THE CITY OF RIVERSIDE, OHIO.

WHEREAS, the City of Riverside Planning Commission has recommended amending the Unified Development Ordinance Chapter 1109 Zoning Development Standards and adding a section for the Water Protection (WP) Overlay District; and

WHEREAS, the Planning Commission has held at least one public hearing thereon, after notice of the time and place thereof had been given as required by law; and

WHEREAS, the Council of the City of Riverside, Ohio, has held a public hearing thereon after notice of the time and place thereof had been given as required by law.

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

Section 1: That Chapter 1109 Zoning Development Standards of the Unified Development Ordinances be amended as stated in “Exhibit A” of this Ordinance.

Section 2: This Ordinance shall take effect and be in full force from and after the earliest date allowed by law.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-826 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK

1109.05 - Overlay zoning district standards.

A. *Mixed Use.*

1. *Purpose.* The Mixed Use Overlay District is meant to encourage medium density mixed use development with a required above grade residential or office component, pedestrian friendly site design, and an urban street character, in order to increase pedestrian traffic, reduce vehicular traffic, promote innovative use of space, promote energy efficient design, conserve land, and accommodate a range of compatible land uses through appropriate site design. Mixed Use Overlay Districts are intended to provide areas in which a variety of housing types exist among neighborhood serving commercial and institutional uses and employment opportunities.

The Mixed Use Overlay District encourages the development of compact, pedestrian scaled, mixed use neighborhoods and commercial centers. It is also intended to help advance revitalization initiatives along commercial corridors and recognizes the market demand for new residential and commercial development within compact, pedestrian friendly districts. Mixed Use zoning is intended to work in conjunction with the proactive development of pocket parks and plazas, open spaces, and the creation of public spaces within the districts. Mixed Use zoning can support commercial corridor redevelopment plans and urban design guidelines or standards that require high quality development that is consistent with the character of the district. It specifically discourages those uses that promote a strip center development pattern, promote idle land and over parking, and detract from the image enhancement intentions of this district. A Mixed Use Overlay District may overlay several base districts. The Mixed Use Overlay Districts include Residential and Business.

2. *Permitted Land Uses.* The uses permitted in each underlying district are limited to the boundaries of that district, and the regulations of the underlying district shall govern, except where additional uses are expressly allowed under this section.
3. *Description and Intent.*
 - a. The intent of the Mixed Use Overlay Districts is to permit the coordinated development and redevelopment on larger sites in order to achieve the following:
 - 1) Flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures.

- 2) Provide the opportunity to mix compatible uses.
 - 3) Protect significant natural features which the property owner and City of Riverside wish to preserve.
 - 4) Allow clustering of residential units to preserve common open space and natural features.
 - 5) Ensure compatibility of design and function between neighboring properties.
 - 6) Promote efficient provision of public services, utilities and transportation facilities.
 - 7) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts.
 - 8) Provide complete non-motorized circulation to, from and within developments.
 - 9) Provide adequate housing and employment.
 - 10) Encourage development of convenient recreational facilities as an integral part of residential developments.
 - 11) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
 - 12) Encourage development and redevelopment that is consistent with the goals stated within the City of Riverside Comprehensive Plan.
 - 13) Eliminate or reduce the degree of nonconforming uses or structures.
- b. These Overlay regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the City of Riverside, assure superior quality. If this improved quality is not clearly apparent upon City of Riverside review, a site shall not qualify for the modifications allowable under this chapter.
4. *Types of Mixed Use Overlay Districts.*
- a. *Neighborhood Transitional Overlay District.*
- 1) *Uses.* A Neighborhood Transitional Overlay District shall include a mixture of uses that are considered to be consistent with the Comprehensive Plan. A minimum of 60 percent of the Neighborhood Transitional Overlay District area shall be occupied by residential or recreational uses. The remainder of

district shall contain business uses.

- 2) *Dimensional Requirements.* Except as may otherwise be permitted by this chapter, all area and bulk dimensional standards shall comply with those of the respective zoning district. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.
- 3) *Parking.* To encourage a true integration of mixed uses and improved efficiency in land use, an overlap in parking requirements may be permitted between uses that have alternating peak parking demands or where the mixture of uses on a site would result in multipurpose trips.
- 4) To encourage flexibility and creativity consistent with the intent of the Mixed Use Overlay District, specific departures may be permitted from the requirements of the Zoning Ordinance. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.

b. *Heavy Commerce Overlay District.*

- 1) *Uses.* A minimum of 60 percent of the area of the site, exclusive of public rights-of-way, shall contain commercial, retail, service, and office uses including areas required for setbacks, storm water facilities, and parking associated with those uses. The remainder of the site may contain industrial uses.
- 2) *Driveway Access and Circulation.*
 - A) Access to the commercial uses shall be limited to one major entrance along any arterial road, excluding an entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least 500 feet apart and a traffic impact study demonstrates overall traffic operations and safety will be improved.
 - B) Main access points shall be spaced from existing signalized intersections to ensure proper spacing and efficient flow of traffic if the main access point is signalized in the future.
 - C) The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without conflict to

inbound or internal circulation. Interior drives shall provide circulation between uses.

- 3) *Dimensional Requirements.* Except as may otherwise be permitted by this chapter, all area and bulk dimensional standards shall comply with those of the respective zoning district. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.
- 4) *Parking.* To encourage a true integration of mixed uses and improved efficiency in land use, an overlap in parking requirements may be permitted between uses that have alternating peak parking demands or where the mixture of uses on a site would result in multipurpose trips.

To encourage flexibility and creativity consistent with the intent of the Mixed Use Overlay District, specific departures may be permitted from the requirements of the Zoning Ordinance. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.

~~c. *Well Field Protection (WP) Overlay District.*~~

- ~~1) *Preamble.* The "WP" Well Field Protection Overlay District is designed to safeguard the public health, safety and welfare of citizens and institutions that are customers of public water supplies by regulating the land use and the storage, handling, use and/or production of regulated substances within the well field protection areas, adjacent to any existing or proposed public wells, within the City of Riverside. The intent of this designation is to protect the region's potable water supply against contamination.~~
- ~~2) *Applicability of Well Field Protection Overlay District to Underlying Zoning Districts.* The provisions of this zoning overlay district shall be applicable to all lands shown as being located within the boundaries of the "WP" Well Field Protection Overlay District on the zoning map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this zoning overlay district are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.~~
- ~~3) *Determination of Applicability.* It shall be the responsibility of any person~~

~~owning real property and/or owning or operating a business within Riverside to make a determination of the applicability of this zoning overlay district as it pertains to the property and/or business under his/her ownership or operation and his/her failure to do shall not excuse any violations of this zoning overlay district.~~

- ~~4) *Permitted Principal Uses.* The permitted principal uses allowed within the "WP" Well Field Protection Overlay District shall be those of the underlying zoning district, provided they meet all requirements of this overlay zoning district. Uses not specifically mentioned are not permitted.~~
- ~~5) *Permitted Accessory Uses.* The accessory uses allowed within the "WP" Well Field Protection Overlay District shall be those of the underlying zoning district, provided they meet all requirements of this overlay zoning district. Uses not specifically mentioned are not permitted.~~
- ~~6) *Conditional Uses.* The following conditional uses subject to approval in accordance with Section 1105.09.F:
 - ~~A) The conditional uses allowed within the "WP" Well Field Protection Overlay District shall be those of the underlying zoning district, provided they meet all requirements of this zoning overlay district in addition to any applicable requirements established for the underlying zoning district.~~
 - ~~B) Mineral excavation, extraction, mining, or processing of sand, gravel, limestone, or other minerals in accordance with the following:
 - ~~(1) All applicable provisions of Section 1109.05.B.10. and the approval of an excavation and facilities plan that includes, but is not limited to:
 - ~~(a) An existing site plan with topographic detail at two foot contour intervals, all planimetric information, depth to groundwater and floodplain characteristics where applicable.~~
 - ~~(b) The proposed extent and depth of excavations.~~
 - ~~(c) Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material).~~
 - ~~(d) Use and disposition of the soils and/or overburden from the excavations including a landscaping and vegetation plan to stabilize any disturbed material.~~~~~~~~

~~(e) Surface Drainage Plan:~~

- ~~i. Drainage into on site excavations from proximate off site transportation facilities such as roadways and roadbeds and off site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from offsite waterborne regulated substances.~~
- ~~ii. The final on site grading shall minimize all surface drainage into the excavations.~~

~~(f) A post excavation and operation land use plan.~~

~~(g) A security plan. Unauthorized access shall be strictly prohibited as long as any excavations remain on site.~~

~~7) *Specific Prohibited Uses.* Sanitary waste facility, sanitary waste processing facility, hazardous waste facility, hazardous waste processing facility, landfills, landfills composed of demolition debris and dry wells and underground storage tanks are prohibited within the "WP" Well Field Protection Overlay District.~~

~~8) *Groundwater Protection Standards.*~~

~~A) *Regulated substances maximum quantities.* Use of regulated substances in conjunction with permitted and conditional uses in this zoning overlay district shall be limited as follows:~~

- ~~(1) *Aggregate of Regulated Substances.* The aggregate of regulated substances in use may not exceed 20 gallons or 160 pounds at any time.~~
- ~~(2) A limited exclusion from the provisions of Section 1109.05.A.4.c.8)A)(1) is authorized for onsite storage of a maximum one year supply of regulated substances which are agricultural chemicals to be used for routine on site agricultural operations provided such substances are stored in standard approved packaging and such substances are applied to cropland under Best Management Practices as indicated by soil tests, the Ohio State University Cooperative Extension Service, the Soil and Water Conservation District and label directions approved by the United States Environmental Protection Agency and the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from locations outside of the Well Field Protection Overlay District. This provision does not exempt such agricultural~~

~~chemicals either stored on site or brought in from other locations from the inventory reporting, spill reporting and underground storage protection requirements of the Well Field Protection Overlay District.~~

~~B) *Limited exclusions to quantity restrictions.* Limited exclusions from the provisions of Section 1109.05.A.4.c.8)A)(1) are authorized for:~~

~~(1) *Non-routine Maintenance or Repair of Property or Equipment.* The use of regulated substances under this exclusion shall be limited to:~~

~~The aggregate of regulated substances in use may not exceed 50 gallons or 400 pounds at any time.~~

~~(2) *Medical and Research Laboratory Use.* Excluded regulated substances shall be stored, handled or used in containers not to exceed five gallons or 40 pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.~~

~~(3) *Cleaning Agents.* Excluded regulated substances which are cleaning agents shall be packaged for personal or household use or be present in the same form and concentration as a product packaged for use by the general public. The aggregate inventory of such cleaning agents shall not exceed 200 gallons or 1,600 pounds at any time. In no case shall regulated substances claimed under this exclusion include chlorinated solvents and non-chlorinated solvents which are capable of being derived from petroleum or coal tar.~~

~~C) *Underground accessory storage of fuel and lubricants.* With the exception of residential use of heating fuels, the underground storage of fuel and lubricants for vehicle operations and fuel for building and/or process heating in conjunction with permitted principal and conditional uses in this zoning overlay district shall be secondarily contained and monitored.~~

~~D) *Nonconforming uses:*~~

~~(1) *Underground Storage Tanks.* Notwithstanding other provisions in this section, nonconforming uses in this zoning overlay district presently using underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or process heating shall be permitted to replace existing tanks with those constructed~~

~~as per the specifications of subsection D)(1) hereof and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than the above-noted fuels and lubricants are not permitted.~~

~~(2) *Substitutions of Nonconforming Uses.* As part of the findings required under Section 1103.13, the Board of Zoning Appeals shall use the total maximum daily inventory and the facility hazard potential rating to assist in the determination of intensity of a use within this zoning overlay district. No substitutions of a nonconforming use shall be permitted which results in an increase in the total maximum daily inventory or an increase in the facility hazard potential rating on a parcel within this zoning overlay district.~~

~~(3) The Director of Planning and Program Management shall determine the intensity of each use within this district utilizing the total maximum daily inventory and the facility hazard potential rating. The two values shall be derived from the regulated substance activity inventory report(s) submitted by an existing or proposed new business in accordance with Section 1111.09.Y., and data collected through inspections. No existing use shall handle an amount of regulated substances in excess of its total maximum daily inventory, or a type and quantity of regulated substances of such hazard that the facility hazard potential rating assigned to the facility is exceeded.~~

~~9) *Temporary Businesses in the Well Field Protection Overlay District.* No temporary business shall be permitted in the Well Field Protection Overlay District that would result in the sum of the regulated substances being handled by all of the uses on the zoning lot to exceed the zoning lot's Total Maximum Daily Inventory, or to be of a type and quantity of regulated substances of such hazard that the facility hazard potential rating assigned to the zoning lot is exceeded.~~

~~10) *Extraction of Minerals:*~~

~~A) Additional Information to be Submitted for Certificate of Zoning Compliance. Two copies of the following additional information shall be submitted with any application for a zoning permit or a conditional use permit:~~

~~(1) Name of the owner or owners of land from which removal is to be~~

~~made;~~

- ~~(2) Name of the applicant making request for such a permit;~~
- ~~(3) Name of the person or corporation conducting the actual mining operations;~~
- ~~(4) Location, description and size of the area from which the removal is to be made;~~
- ~~(5) Location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other firm, person or corporation. The processing plant shall be located as to minimize the problems of dust, dirt and noise, insofar as reasonably possible;~~
- ~~(6) Type of resources or materials to be removed;~~
- ~~(7) Proposed method of removal and whether or not blasting or other use of explosives will be required;~~
- ~~(8) General description of the equipment to be used; and~~
- ~~(9) Method of rehabilitation and reclamation of the mined out area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after completion. Such plan shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less.~~

~~B) Development Standards.~~

- ~~(1) No mining of sand and gravel shall be carried on, or any stockpile placed closer than 50 feet to any property line, or such greater distance as specified by the Board of Zoning Appeals, where such is deemed necessary for the protection of adjacent property, except that this distance requirement may be reduced by the written consent of the owners of abutting property, but in any such event, adequate lateral support shall be provided for such abutting property.~~
- ~~(2) In the event that the site of the mining operation is adjacent to the right of way of any public street or road, no part of such operation shall take place closer than 50 feet to the nearest line of such right of way, except as may otherwise be provided by Ohio R.C.~~

~~4153.11.~~

- ~~(3) Any excavated area adjacent to a right of way of any public street or road shall be back filled for a distance of 150 feet from the right of way line.~~
- ~~(4) Fencing or other suitable barrier, including the planting of multiflora rose, shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing or barrier is necessary for the protection of the public safety and shall be of a type specified by the Board.~~
- ~~(5) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration. Access roads shall be maintained in a dust free condition by surfacing or other treatment as may be specified by the Board.~~
- ~~(6) Quarrying shall not be carried out closer than 300 feet to any adjoining property line unless the written consent of the adjoining property owner has first been obtained.~~
- ~~(7) The Board is authorized to impose such requirements with respect to providing adequate barriers as it may feel necessary to protect the public safety.~~

~~C) *Rehabilitation Requirements.* All mined out areas shall, within a reasonable length of time, be reclaimed and rehabilitated and the Board of Zoning Appeals, at its discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The Board shall be guided by the following standards with respect to rehabilitation and reclamation of mined out areas:~~

- ~~(1) All excavation shall be made either to a water producing depth, such depth to be not less than five feet below the water mark, or shall be graded or back filled with non-noxious, noncombustible and nonflammable solids, to secure:~~
 - ~~(a) That the excavated area shall not collect and permit to remain therein, stagnant water; or,~~
 - ~~(b) That the surface of such area which is not permanently submerged is graded or back filled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land~~

~~area.~~

- ~~(2) The banks of all sand and gravel excavations in a water producing excavation, and to the pit bottom in a dry operation, shall be sloped to the water line, at a slope which will not be less than three feet horizontal to one foot vertical and said banks shall be restored with vegetation in a manner set forth in Section 1109.05.~~
- ~~(3) Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts of said mining area where the same is not submerged under water.~~
- ~~(4) Proper drainage shall be provided for the mined out area.~~
- ~~(5) All equipment and structures shall be removed from the mined out area within six months of the completion of the mining therefrom.~~
- ~~(6) The Board may impose such other reasonable conditions and restrictions as it may deem necessary for the protection of the public and to encourage the mining and processing of the sand and gravel from the authorized area.~~
- ~~(7) Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, the Board is hereby empowered, in the issuance of a conditional use permit for quarrying operations, to impose such reasonable standards for reclamation as may be necessary to protect the public interest, without unduly restricting the operations of the mine owner.~~

1109.07 – Water Protection (WP) Overlay District

- A. *Preamble.* The Source Water Protection Area is comprised of two Well Field Protection Districts: the Well Head Operation (WO) Districts and the Water Protection Overlay (WP) District. The "WP" Water Protection Overlay District is designed to safeguard the public health, safety and welfare of citizens and institutions that are customers of any protected public water supplies by regulating the land use and the storage, handling, use and/or production of Regulated Substances. The aerial extent of the overlay district is described as the land within the well field protection areas and adjacent to any existing or proposed public wells within the City of Riverside. The intent of this designation is to protect the region's potable water supply against contamination.
- B. *Applicability of Well Field Protection Overlay Area to Underlying Zoning Districts.* The provisions of this zoning overlay district shall be applicable to all lands shown as being located within the boundaries of the "WP" Water Protection Overlay Area on the zoning map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this zoning overlay district are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply. All documented costs incurred in the administration and enforcement of this ordinance shall be passed on the property owner.
- C. *Determination of Applicability.* It shall be the responsibility of any person owning real property and/or owning or operating a business within the City of Riverside to make a determination of the applicability of this zoning overlay district as it pertains to the property and/or business under his/her ownership or operation and his/her failure to do shall not excuse any violations of this zoning overlay district.
- D. *Definitions.*
1. **Administrator** - Shall be the Zoning Administrator and any technical consultants or agencies authorized by the **City Manager** to assist in administration and enforcement of the provisions of this ordinance.
 2. **Aquifer** - A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
 3. **Conforming Use Site(s)** – A land use which is restricted in the use, storage, handling and/or production of no more than 160 pounds or 20 gallons of Regulated Substances.
 4. **Direct Recharge Area** - That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.
 5. **Drainage** - the orderly removal of excess water from the surface of land through improved natural channels or constructed ditches and through shaping of the land.
 6. **Handle** – to place, deposit, store, process, use, produce, dispose of, transport, or release Regulated Substances; or permit Regulated Substances to be placed, deposited, stored, processed, used, produced, disposed or, transported or released.
 7. **Health Hazard** – Posing any of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard.
 8. **Nonconforming Use Site(s)** – Land, parcels, and/or lots with a TMDI greater than 160 pounds and/or 20 gallons of regulated substances.
 9. **Owner and/or Operator** - Any person who occupies, owns, leases, operates, controls, or supervises real property, a business, facility, building, structure or installation within the Source Water Protection Area. Including person(s) that hold the fee simple title to property and person(s) who have acquired any interest in the property by contract, purchase, or otherwise. This includes but is not limited to any part owner, lessee, or licensee.

- 10. Potable Water** - Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- 11. Protected Public Water Supply** - A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly services at least twenty-five (25) year-round residents and having a one-year capture area defined through appropriate hydrologic study.
- 12. Recharge Lagoon** - A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.
- 13. Regulated Substance(s)** - Substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals which are health hazards. Regulated Substances include, but are not limited to, the following:
 - a. Hazardous substances as defined in §101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S. C. § 9601 and in any regulations issued under such Act.
 - b. Any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act, 42 U.S.C. §2011 et seq., and in any regulations issued under such act.
 - c. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.
 - d. Mixtures of chemicals and substances for which the U.S. Environmental Protection Agency has concluded, pursuant to §5 Toxic Substances Control Act, 15 U.S.C. §2605 (or regulations issued under said Act), that the manufacture, processing, distribution, use, or disposal thereof presents or will present an unreasonable risk of injury to health or the environment.
 - e. Mixtures of chemicals which have not been tested as a whole, but which contain any chemical which has been determined to be a health hazard and which comprises one (1) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater of the composition on a weight per unit weight basis.
 - f. Ingredients of mixtures prepared within the "WP" Well Field Protection Overlay Area in cases where such ingredients are health hazards but comprise less than one tenth of one (0.1) percent of the mixture (on a weight per unit weight basis) if carcinogenic, of less than one (1.0) percent of the mixture (on a weight per unit weight basis) if non-carcinogenic.
 - g. Petroleum and non-solid petroleum derivatives(except non-PCB dielectric fluids) such as crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas useable for fuel.
 - h. Substances that are active ingredients in any pesticide regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.
- 14. Regulated Substance Activity Inventory Report (RSAIR)** – A report submitted by Owner and/or Operator for a parcel(s) or lot(s) in the Source Water Protection Area on a bi-annual basis that includes the Owner and/or Operator's contact information and provides details on the types and amounts of Regulated Substances handled on the site.
- 15. Spill Prevention and Response Plan** – A plan that describes how Regulated Substances will be handled at the site. In addition to a site diagram, the plan includes but is not limited to a description of the storage, use, employee training, engineering controls, spill response equipment, emergency response plan, spill cleanup, disposal, and reposting for the Regulated

Substances.

- 16. The Source Water Protection Area (SWPA)** - The Source Water Protection Area is comprised of two Source Water Protection Districts: the Well Head Operation District (WO) and the Water Protection Overlay District (WP). This regulated area also includes land within the one (1) year capture area. The SWPA was formerly known as the Well Field Protection District.
 - 1) **Water Protection (WP) Overlay District** – The regulated area around the public water supply well fields, delineated by the one-year capture area.
 - 2) **Water Resource Area (WR)** - A geographical area between the Water Protection Overlay Area and the five-year time of travel boundary, as shown in the attached map.
- 17. Total Maximum Daily Inventory (TMDI)** – A value, in pounds, that is established as the largest quantity of Regulated Substances that a parcel(s) and/or lot(s) is permitted to handle at any one time.
- 18. Travel Time Contour** - A locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.
- 19. Underground Storage Tank** - One or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10) percent or more beneath the surface of the ground. Flow-through process tanks and tanks situated in an underground area (such as basement, tunnel, or vault upon or above the surface of a floor are excluded from the definition of underground storage tanks. Tanks shall comply with the requirements of the Ohio Administrative Code, §1301: 7-9.
- 20. Well Field** - A tract of land that contains a number of wells for supplying water.
- 21. Zone of Influence** - A zone delineated by iso-travel time contours around well fields. The zone is calculated, based on the rate of movements of groundwaters in the vicinity of wells with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.
- E. *Permitted Principal Uses.* The permitted principal uses allowed within the "WP" Water Protection Overlay Area shall be those of the underlying zoning district, provided they meet all requirements of this overlay zoning district. Uses not specifically mentioned are not permitted.
- F. *Permitted Accessory Uses.* The accessory uses allowed within the "WP" Water Protection Overlay District shall be those of the underlying zoning district, provided they meet all requirements of this overlay zoning district. Uses not specifically mentioned are not permitted.
- G. *Specific Prohibited Uses.* The following land uses are prohibited in the Water Protection (WP) Overlay:
 1. Dry Wells
 2. Grade and fill sites
 3. Underground storage tanks.
 - a. With the exception of residential use of heating fuels, the underground storage of fuel and lubricants for vehicle operations and fuel for building and/or process heating in conjunction with permitted principal and conditional uses in this zoning overlay district shall be secondarily contained and monitored. Such installation shall be subject to approval by the Administrator or their designee.
 4. Construction and demolition waste facility
 5. Sanitary waste facility and/or sanitary waste processing facility
 6. Hazardous waste facility and/or hazardous waste process facility

7. The manufacturing of acetylene, cement, gypsum or plaster of Paris, chlorine, corrosive acid or fertilizer, insecticides, poisons, explosives, paper and pulp, paint, lacquer, petroleum products except the molding of plastic into goods, coal products, and radioactive materials
8. Smelting, animal slaughtering, and oil refining
9. Any use of chlorinated and/or perfluorinated compounds (e.g. dry cleaners)
10. Bulk fuels storage facility
11. Class I, II, III, IV, & VI underground injection wells
12. Concentrated animal feeding facility
13. Hazardous liquid pipeline facility
14. Gas Stations or Vehicle Fueling facilities with Underground Storage Tanks
15. Junkyards, including vehicle crushing
16. Manufacturing, chemical
17. Manufacturing, extraction, mixing, or warehousing of Pharmaceuticals and Personal Care Products (PPCP)
18. Manure storage and/or treatment facility
19. Plating
20. Recycling collection facility – both large and small collection facilities
21. Recycling processing facility, indoor and outdoor
22. Salt piles unless stored inside structures with an impermeable floor
23. Sand, limestone, shale, clay, and gravel operations
24. Self-Storage facility
25. Truck Terminals

H. *Conditional Uses*. The following conditional uses subject to approval in accordance with Section 1105.09.G:

1. The conditional uses allowed within the "WP" Water Protection Overlay Area shall be those of the underlying zoning district, provided they meet all requirements of this zoning overlay district in addition to any applicable requirements established for the underlying zoning district.
2. *Mineral Extraction*. Mineral excavation, extraction, mining, or processing of sand, gravel, limestone, or other minerals in accordance with the following:
 - a. All applicable provisions of this Section and the approval of an excavation and facilities plan that includes, but is not limited to:
 - 1) An existing site plan with topographic detail at two (2) foot contour intervals, all planimetric information, depth to groundwater and floodplain characteristics where applicable.
 - 2) The proposed extent and depth of excavations.
 - 3) Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material).
 - 4) Use and disposition of the soils and/or overburden from the excavations including a landscaping and vegetation plan to stabilize any disturbed material
 - 5) Surface Drainage Plan:

- (a) Drainage into onsite excavations from proximate off site transportation facilities such as roadways and roadbeds and off site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from offsite waterborne regulated substances.
 - (b) The final on site grading shall minimize all surface drainage into the excavations.
 - 6) A post excavation and operation land use plan.
 - 7) A security plan. Unauthorized access shall be strictly prohibited as long as any excavations remain on site.
- b. *Additional Information to be Submitted for Conditional Approval.* One copy of the following additional information and a digital copy shall be submitted with any application for a conditional use permit:
 - 1) Name of the owner or owners of land from which removal is to be made;
 - 2) Name of the applicant making request for such a permit;
 - 3) Name of the person or corporation conducting the actual mining operations;
 - 4) Location, description and size of the area from which the removal is to be made;
 - 5) Location of the processing plant to be used and any accessory or kindred operations that may be utilized in connection with the operation of the processing plant by the mining processor or any other firm, person or corporation. The processing plant shall be located as to minimize the problems of dust, dirt and noise, insofar as reasonably possible;
 - 6) Type of resources or materials to be removed;
 - 7) Proposed method of removal and whether or not blasting or other use of explosives will be required;
 - 8) General description of the equipment to be used; and
 - 9) Method of rehabilitation and reclamation of the mined out area, including a grading plan showing existing contours in the area to be excavated and the proposed future contours showing the topography of the area after completion. Such plan shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less.
- I. *Existing Land Uses.* All legal uses located within the 'WP' area, shall be conforming or nonconforming as defined in Part D and are responsible for supplying a Regulated Substance Activity Inventory Report (RSAIR) as required by the TMDI (determined by peak business cycle). Existing uses and TMDI, in combination with "Hazard Potential Rating" shall run with the land and be administered in conformance with all other applicable nonconforming provisions of this zoning ordinance and the Ohio Revised Code.
- J. *Variances to Increase Established TMDI in the Source Water Protection Districts.*
 - c. Variances to increase established TMDI shall be regulated pursuant to Section 1105.15.C.
 - d. Variances to increase TMDI in connection with a prohibited use as enumerated in Section 7 shall be prohibited. Due to the greatest potential for contamination of the region's potable water supply, variances to increase established TMDI within the Miami

Well Field shall be prohibited.

- e. A reduction in TMDI shall not require a variance.
- f. *Application.* An application for a variance to increase established TMDI within the Water Protection Overlay (WP) District may be obtained through the City of Riverside's offices. The applicant shall provide all information requested on the application as well as the application fee.
 - i. The Administrator may require a pre-application meeting with the applicant prior to receiving the application. However, no opinions, suggestions, or recommendations discussed may be relied upon by the applicant as a guarantee of subsequent approval or disapproval of the application
 - ii. . Within five (5) days of receiving an application in the proper form and payment of the application fee, the Administrator may provide copies of the application to the TRC. Copies of the application may also be sent to Dayton Water Department, Montgomery County Public Health, Huber Heights, Harrison Township, and/or Wright Patterson Air Force Base.
- g. *Standards for Variance.* No variance to increase established TMDI within the WP Overlay District shall be granted unless the Administrator determines that the variance will not pose a significant risk to the contamination of groundwater. In order to obtain such a variance, the applicant must prove all of the following by clear and convincing evidence:
 - i. The granting of the variance will not adversely affect the City's well fields or the ability of government water services to be safely delivered and thereby adversely affect the public health, safety or general welfare;
 - ii. Risk to the Source Water Protection Area posed by the requested variance is negated through proper engineering controls and a Spill Prevention and Response Plan;
 - iii. The increase the TMDI is in response to changes in the market and/or need to increase production, provided that all other methods to respond to changes in the market and/or to increase production without exceeding the TMDI or reported Regulated Substances have been exhausted;
 - iv. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - v. The variance will be consistent with the general spirit and intent of the Zoning Code and the Source Water Protection Program; and
 - vi. The variance sought is the minimum that will afford relief to the applicant
- h. *Risk Screening.* For a variance request to increase TMDI, the Administrator, or a designated representative, shall evaluate the request using its risk screening methodology. The results of the screening will be used in reviewing and evaluating the request for a variance in addition to the standards listed in Subsection e.
- i. *Appeals.* Any person adversely affected by any requirement, decision, or determination made by the Administrator, or a designated representative, in the administration or enforcement of Part J of this ordinance may appeal to the Source Water Protection Fund Board. Such appeal shall be made within ten (10) days from the date of the

action appealed from by filing an appeal application. The property owner and/or operator shall demonstrate increasing the TMDI would not result in an increase risk to the aquifer and/or ground water through a written proposal to the Administrator at least 30 days prior to the Source Water Protection Fund Board meeting.

K. *Groundwater Protection Standards. TMDI for Regulated Substances* . Use of Regulated Substances in conjunction with permitted and conditional uses in this zoning overlay district shall be limited as follows:

1. *Limited Exclusions*. A limited exclusion from the provisions of this ordinance is authorized for onsite storage of a maximum one year supply of Regulated Substances which are agricultural chemicals to be used for routine on site agricultural operations provided such substances are stored in standard approved packaging and such substances are applied to cropland under Best Management Practices as indicated by soil tests, the Ohio State University Cooperative Extension Service, the Soil and Water Conservation District and label directions approved by the United States Environmental Protection Agency and the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from locations outside of the Water Protection Overlay Area. This provision does not exempt such agricultural chemicals either stored on site or brought in from other locations from the inventory reporting, spill reporting and underground storage protection requirements of the Water Protection Overlay Area.
2. *Limited exclusions to quantity restrictions*. Limited exclusions from the provisions of this ordinance are authorized for Confirming Use Sites:
 - a. *Routine Category*. Regulated Substances associated with routine daily operations, including routine maintenance. The use, storage, handling and/or production of Regulated Substances under this exclusion shall be limited to 160 pounds or 20 gallons at any time.
 - b. *Non-routine Maintenance or Repair of Property or Equipment*. Regulated Substances for the non-routine maintenance or repair of property. The use, storage, handling and/or production of Regulated Substances under this exclusion shall be limited to 50 gallons or 400 pounds at any time.
 - c. *Medical and Research Laboratory Use*. Excluded Regulated Substances for medical and research laboratory purposes, shall be stored, handled or used in containers not to exceed 5 gallons or 40 pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed 250 gallons or 2,000 pounds.
 - d. *Cleaning Agents*. Excluded Regulated Substances which are cleaning agents shall be packaged for personal or household use or be present in the same form and concentration as a product packaged for use by the general public. The aggregate inventory of such cleaning agents shall not exceed 1,600 pounds or 200 gallons at any time. In no case shall Regulated Substances claimed under this exclusion include chlorinated solvents and non-chlorinated solvents which are capable of being derived from petroleum or coal tar.
 - e. *Construction Materials*. Regulated Substances associated with construction for which a permit has been issued, paving or the pouring of concrete shall be excluded from regulation while present on the construction site provided such Regulated Substances do not pose a real and present danger of contaminating surface and/or ground water.
 - f. *Office Supplies*. Office supplies that are used solely for the operation of on-site administrative offices, provided such supplies are prepackaged in a form ready for use.

3. *Underground Storage Tanks on Nonconforming Use Sites.* Notwithstanding other provisions in this section, nonconforming use sites in this zoning overlay district presently using underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or process heating shall be permitted to replace existing tanks within twelve (12) months from the time the original tank is removed. The operator shall notify the Administrator at least sixty (60) days before the existing tank is removed.
 - a. The replacement tanks shall be secondarily contained, monitored, and not exceed the capacity of existing tanks.
 - b. The replacement tanks shall be aboveground storage tanks. Gas Stations and Car Washes are exempted from this provision.
 - c. Replacement of underground tanks for Regulated Substances other than the above noted fuels and lubricants are not permitted.

L. Temporary and Discontinued Uses in the Water Protection Overlay District .

1. *Temporary Uses.* No temporary use shall be permitted in the Water Protection Overlay Area that would result in the sum of the Regulated Substances being handled by all of the uses on the lot to exceed the lot's TMDI, or to be of a type and quantity of Regulated Substances of such hazard that the facility hazard potential rating assigned to the parcel is exceeded.
2. *Discontinued Uses.*
 - a. Except in the case of a seasonal discontinuation of operation, in the event any nonresidential property either becomes unoccupied or discontinues operation for a period of ninety (90) consecutive days or longer, the owner or operator shall remove all Regulated Substances and excluded and exempted substances from the property other than those used exclusively for heating, cooling, and providing electrical lighting for the premises. The removal of all Regulated Substances and excluded and exempted substances from such a property must occur within one hundred and fifty (150) days from the date the property first became unoccupied, or operations ceased or were discontinued. The owner or operator shall secure the Regulated Substances and excluded and exempted substances on the property until such time as they have been removed. The owner or operator shall notify the Administrator in writing of the date of the cessation or discontinuation of operation or the property becoming unoccupied no later than twenty-one (21) days from the day upon which operation actually ceases or discontinues or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address, and the operator's name, phone number, and new address.
 - b. Without regard to any other provisions of the codified ordinances of the City of Riverside, Ohio, if a nonconforming use is discontinued or a nonconforming building or structure is vacant on a nonconforming use site and remains so for a continuous period of six (6) months or more within any 12-month period, the Regulated Substances on the former nonconforming use, building, or structure shall not exceed the TMDI limits for conforming use sites.
 1. *Removal of Regulated Substances.* Any nonresidential use of property that becomes unoccupied or has discontinued operation for a period of ninety (90) consecutive days or more shall remove all Regulated Substances from the property upon which it is located one hundred and fifty (150) days from the date the property first became unoccupied, or operations ceased or were discontinued. The removal of Regulated Substances shall be the responsibility of the property owner. Failure to remove all Regulated Substances in

accordance with this ordinance or other applicable State Laws, may result in the City of Riverside taking any and all action necessary to safely remove the Regulated Substances at the property owner's expense.

2. *Extension of Discontinued Uses.* At any time, the Administrator may for good cause grant an extension to the above stated timeframes upon the submittal of a written request from the applicant. The written statement must include a detailed reason for the request for an extension and new timeline for continued operations and/or removal of Regulated Substances. The extension granted shall not exceed six (6) months.

M. *Development Standards.*

1. *Technical Consultants.* Upon application for a Zoning Permit, Development application, and/or Conditional Use application for a use within the "WP" Water Protection Overlay District, the Administrator may employ such technical expertise as needed to ensure compliance with the provisions of this Section. All documented costs incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the City of Riverside to review a Zoning Permit, Development application, and/or Conditional Use application.
2. No mining of sand and gravel shall be carried on, or any stockpile placed closer than 50 feet to any property line, or such greater distance as specified by the Administrator, where such is deemed necessary for the protection of adjacent property, except that this distance requirement may be reduced by the written consent of the owners of abutting property, but in any such event, adequate lateral support shall be provided for such abutting property. A copy of the written statement granting the adjoining property owner's consent must be submitted to the Administrator and kept on file.
3. In the event that the site of the mining operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 50 feet to the nearest line of such right-of-way, except as may otherwise be provided by Ohio R.C. 4153.11.
4. Any excavated area adjacent to a right-of-way of any public street or road shall be back filled for a distance of 150 feet from the right-of-way line.
5. Fencing or other suitable barrier, including the planting of multiflora rose, shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Administrator, such fencing or barrier is necessary for the protection of the public safety and shall be of a type specified by the Administrator.
6. All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration. Access roads shall be maintained in a dust free condition by surfacing or other treatment as may be specified by the Public Service Department Director.
7. Quarrying shall not be carried out closer than 300 feet to any adjoining property line unless the written consent of the adjoining property owner has first been obtained. A copy of the written statement granting the adjoining property owner's consent must be submitted to the Administrator and kept on file.
8. The Administrator is authorized to impose such requirements with respect to providing adequate barriers as it may feel necessary to protect the public safety.

N. *Rehabilitation Requirements.* All mined out areas shall, within a reasonable length of time, be reclaimed and rehabilitated and the City of Riverside, at its discretion, may fix a bond in a reasonable amount to assure that such rehabilitation and reclamation will be carried out. The Administrator shall be guided by the following standards with respect to rehabilitation and reclamation of mined out areas:

1. All excavation shall be made either to a water producing depth, such depth to be not less than five feet below the water mark, or shall be graded or back filled with non-noxious, noncombustible and nonflammable solids, to secure:
 - a. That the excavated area shall not collect and permit to remain therein, stagnant water; or,
 - b. That the surface of such area which is not permanently submerged is graded or back filled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
2. The banks of all sand and gravel excavations in a water producing excavation, and to the pit bottom in a dry operation, shall be sloped to the water line, at a slope which will not be less than three (3) feet horizontal to one (1) foot vertical and said banks shall be restored with vegetation in a manner set forth in Section 1113.07.
3. Vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts of said mining area where the same is not submerged under water.
4. Proper drainage shall be provided for the mined out area.
5. All equipment and structures shall be removed from the mined out area within six (6) months of the completion of the mining there from.
6. The Administrator may impose such other reasonable conditions and restrictions as it may deem necessary for the protection of the public and to encourage the mining and processing of the sand and gravel from the authorized area.
7. Due to the inherent difficulties in reclaiming and rehabilitating areas from which stone has been quarried, the Administrator hereby empowered, in the issuance of a conditional use permit for quarrying operations, to impose such reasonable standards for reclamation as may be necessary to protect the public interest, without unduly restricting the operations of the mine owner.

O. Reporting Requirements

1. *Regulated Substance Activity Inventory (RSAIR)*

a. *Applicability:*

- 1) *Existing Land Use.* Except as provided in Section 1109.05.H.1.b any owner or occupant of any land in the Water Protection Overlay District which has a non-residential use at the effective date of this ordinance, shall file a Regulated Substance Activity Inventory Report with the Administrator. Said report shall be filed within one hundred and eighty (180) days of the effective date of this ordinance and at twenty-four (24) month intervals thereafter. A copy of the report shall be provided to the occupant if different than the owner.
- 2) *New Land Use.* Except as provided in Section 1109.05.H.1.b any owner or occupant of any new land use in the Water Protection Overlay District shall file a Regulated Substance Activity Inventory Report prior to receipt of a Certificate of Zoning Occupancy and at twenty-four (24) month intervals following the date of occupancy.
- 3) Where a person owns, operates or occupies more than one location within the Water Protection Overlay District, Regulated Substance Activity Reports shall be made for each location.

b. *Exclusions to Activity Inventory Reporting*

- 1) Any exclusion set forth in this paragraph shall apply provided that said exclusion does not substantially increase any risk or hazard to the public health, aquifer, water supply, wells or well fields; and provided further that any spill, leak, discharge or mishandling shall be subject to the provision of this ordinance. Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved.
- 2) A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for incidental uses of Regulated Substances provided the uses are limited to categories outlined in Part K
- 3) An exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for the transportation of Regulated Substances through the Water Protection Overlay District provided that the transporting vehicle is in compliance with applicable local, state and federal laws and regulations, and provided that the Regulated Substance is fueling the transporting vehicle or the transporting vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed seventy-two (72) hours.
- 4) *Motor Vehicle Fuels.* Regulated Substances contained in an inoperable Motor Vehicles or watercraft shall not be exempt. Except as provided in Part K, the contents of the tanker portion of a tanker trailer are not excluded from reporting.
- 5) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for owners and occupants of single or two-family residences provided, however, the storage and use of Regulated Substances as identified in Part K are related to the maintenance of the residence or vehicles under control of the occupant and provided waste Regulated Substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly owned wastewater treatment works.

P. SPILLS, LEAKS OR DISCHARGES

1. *Notification.* Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Water Protection Overlay District shall, if such spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the City of Riverside Fire Dispatcher, within thirty (30) minutes of such spill. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.
2. *Liability.* Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the City of Riverside in response to such an incident, in addition to the amount of any fines imposed on account thereof under Ohio and Federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of recurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred and eighty (180) days after the incident.
3. *Posting.* City of Riverside shall post signs inconspicuous places advising transporters of Regulated Substances of notification procedures in the event of a spill or accidental discharge.

Q. FALSIFYING INFORMATION. No person shall make any false statement, representation, or certification

in any report or other document filed or required to be maintained pursuant to this Ordinance.

R. ENFORCEMENT.

1. The Administrator shall determine the intensity of each use within this district utilizing the TMDI and the facility hazard potential rating. The two values shall be derived from the Regulated Substance activity inventory report(s) submitted by an existing or proposed new land use in accordance with Part S, and data collected through inspections. No existing use shall handle an amount of Regulated Substances in excess of its TMDI, or a type and quantity of Regulated Substances of such hazard that the facility hazard potential rating assigned to the facility is exceeded.
2. *Application.* If any activity or use of Regulated Substance is deemed by the Administrator to be in violation of this ordinance or poses a real and present danger of contaminating surface and/or ground water which would normally enter the public water supply, in accordance with Section 1103.15 or other applicable Local, State, and Federal Laws, the Administrator is authorized to:
 - a. Cause cessation of said activity or use of the Regulated Substance;
 - b. Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or
 - c. Cause the provision of pollution control and/or abatement activities.
 - d. Assess fines against in person who fails to comply with this ordinance in accordance with Section 1103.99.
3. *Considerations.* When considering the exercise of any of the above authorities or actions, the Administrator shall notify and consult with the designated representative of the affected water supply to determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. The Administrator may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.
4. Any violation of this ordinance is hereby declared to be a public nuisance. In addition to any other relief provide by Unified Development Ordinance, the Law Director may apply to a court of competent jurisdiction for an injunction to prohibit any violation or threatened violation of this ordinance. The Law Director may also sue for monetary damages on behalf of the City.

S. HAZARD POTENTIAL RANKING SYSTEM. In order to assess the risk for potential groundwater contamination, a hazard ranking has been developed for various activities categorized by their Standard Industrial Classification (SIC) code. This ranking is based on the kinds of materials commonly associated with each use looking only at the most critical hydrologic factor.

1. *Table 1 - Hazard Potential by Land Use*:* Table 1 lists the site hazard potential by land use activity on a scale of 1 - 9, with 1 being a low hazard and 9 a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly used or stored on the site or the types and amounts of wastes commonly discharged.
2. *Table 2 - Hazard Potential by Material*:* Table 2 lists the hazard potential determined on the basis of materials known to be used, stored, or disposed of at a specific site.

*If the two tables referenced above indicate different site hazard potential ratings for the SIC-coded land use activity and the materials found on-site, the higher of the two scores is the rating for the site.

Table 1 Contaminant Hazard Potential Ranking Classified by Source		
SIC No.	Description of Waste Source	Hazard Potential Initial Rating
01	Agricultural Production-Crops	1 - 2
02	Agricultural Production- Livestock 021..... Livestock, except Dairy, Poultry and Animal Specialties 024.....Dairy Farms..... 025.....Poultry and Eggs..... 027.....Animal Specialties..... 029.....General Farms, Primarily Livestock.....	3; 5 for Feedlots 4 4 2 - 4 2
10	Metal Mining 101.....Iron Ores..... 102.....Copper Ores..... 103.....Lead and Zinc Ores..... 104.....Gold and Silver Ores..... 105.....Bauxite and Other Aluminum Ores..... 106.....Ferroalloy Ores Except Vanadium..... 108.....Metal Mining Services..... 1092.....Mercury Ore..... 1094.....Uranium-Radium-Vanadium Ores..... 1099.....Metal Ores Not Elsewhere Classified....	4 6 5 6 5 5 4 6 7 5
11	Anthracite Mining.....	7
12	Bituminous Coal and Lignite Mining.....	7
13	Oil and Gas Extraction 131 Crude Petroleum and Natural Gas..... 132.....Natural Gas Liquids..... 1381.....Drilling Oil and Gas Wells..... 1382.....Oil & Gas Field Exploration Services... 1389.....Oil & Gas Field Services Not Elsewhere Classified.....	7 7 6 1 Variable, Depending on Activity
14	Mining & Quarrying of Non-Metallic Minerals, Except Fuels	

	141.....Dimension Store..... 142.....Crushed & Broken Stone, Including..... Rip-Rap 144.....Sand & Gravel..... 145.....Clay, Ceramic & Refractory Minerals.... 147.....Chemical & Fertilizer Mineral Mining... 148.....Nonmetallic Minerals Services..... 149.....Miscellaneous Nonmetallic Minerals, Except Fuels	2 2 2 2 - 5 4 - 7 1 - 7 2 - 5
16	Construction Other than Building Construction 1629....Heavy Construction, not Elsewhere..... Classified (Dredging, Especially in Salt Water)	4
20	Food and Kindred Products 201.....Meat Products..... 202.....Dairy Products..... 203..... Canned & Preserved Fruits & Vegetables. 204.....Grain Mill Products..... 205.....Bakery Products..... 206.....Sugar & Confectionery Products..... 207.....Fats & Oils..... 208.....Beverages..... 209.....Miscellaneous Food Preparation &..... Kindred Products	3 2 4 2 2 2 3 2 - 5 2
22	Textile Mill Products, All Except Listed Below 223.....Broad Woven Fabric Mills Wool..... (including dyeing & finishing) 226.....Dyeing & Finishing Textiles, Except..... Wool Fabrics & Knit Goods 2295.....Coated Fabrics, not Rubberized.....	6 6 6
24	Lumber & Wood Products Except Furniture 241.....Logging Camps & Logging Contractors.... 242.....Sawmills & Planing Mills..... 2435.....Hardwood Veneer & Plywood..... 2436.....Softwood Veneer & Plywood..... 2439. ... Structural Wood Members not Elsewhere.. Classified (laminated wood-glue)	2 2 4 4 3

	2491.....Wood Preserving..... 2492..... Particle Board..... 2499.....Wood Products, not Elsewhere..... Classified 241.....Logging Camps & Logging Contractors.... 242.....Sawmills & Planing Mills..... 2435.....Hardwood Veneer & Plywood..... 2436.....Softwood Veneer & Plywood..... 2439. ... Structural Wood Members not Elsewhere.. Classified (laminated wood-glue) 2491.....Wood Preserving..... 2492.....Particle Board..... 2499.....Wood Products, not Elsewhere Classified	5 4 2 - 5 2 2 4 4 3 5 4 2 - 5
26	Paper & Allied Product 261.....Pulp Mills..... 262.....Paper Mills Except Building Mills 263.....Paperboard Mills.....	 6 6 6
28	Chemicals & Allied Products 2812.....Alkalis & Chlorine..... 2813.....Industrial Gases..... 2816.....Inorganic Pigments..... 2819.....Industrial Inorganic Chemicals, not... Elsewhere Classified 2821.....Plastic Materials, Synthetic Resins.... & Nonvulcanizable Elastomers 2822.....Synthetic Rubber (Vulcanizable..... Elastomers) 2823.....Cellulose Man-Made Fibers..... 2824.....Synthetic Organic Fibers, Except Cellulosic 2831.....Biological Products..... 2833.....Medicinal Chemicals & Botanical Products..... 2834.....Pharmaceutical Preparations..... 2841.....Soap & Other Detergents, Except Specialty Cleaners 2842.....Specialty Cleaning, Polishing, &..... Sanitation Preparation 2843.....Surface Active Agents, Finishing..... Agents, Sulfonated Oils & Assistants 2844.....Perfumes, Cosmetics & Other Toilet.....	 7 - 9 - 3 - 8 3 - 9 6 - 8 6 - 8 6 - 8 6 - 8 6 - 9 3 - 8 6 - 9 4 - 6 3 - 8 6 - 8

	Preparations 2851.....Paints, Varnishes, Lacquers, Enamels.. & Allied Products 2861.....Gum & Wood Chemicals..... 2865.....Cyclic (coal tar) Crudes, & Cyclic..... Intermediates, Dyes & Organic Pigments (Lakes and Toners) 2869.....Industrial Organic Chemicals not..... Elsewhere Listed 2873.....Nitrogenous Fertilizers..... 2874.....Phosphatic Fertilizers..... 2875.....Fertilizer Mixing Only..... 2879.....Pesticides & Agricultural Chemicals.... not Elsewhere Listed 2891.....Adhesives & Sealants..... 2892.....Explosives..... 2893.....Printing Ink..... 2895.....Carbon Black..... 2899.....Chemicals & Chemical Preparations,..... not Elsewhere Listed	3 – 6 5 – 8 5 – 8 6 – 9 3 – 9 7 – 8 7 – 8 5 5 – 9 5 - 8 6 - 9 2 - 5 1 - 3 3 - 9
29	Petroleum Refining & Related Industries 291.....Petroleum Refining..... 295.....Paving & Roofing Materials..... 299.....Misc. Petroleum & Coal Products.....	 8 7 7
30	Leather & Leather Products 311 Remaining Three-Digit Codes.....	Leather Tanning & Finishing. 8 1 - 3
31	Rubber & Miscellaneous Plastics Products 301.....Tires & Inner Tubes..... 302.....Rubber & Plastic Footwear..... 303.....Reclaimed Rubber..... 304.....Rubber & Plastic Hose & Belting..... 306.....Fabricated Rubber Products, not..... Elsewhere Classified	 6 6 6 4 4
32	Primary Metal Industries (Except as. ... 3 Noted Below)	

	3312....Blast Furnaces, Steel Works, and Rolling & Finishing Mills..... 333.....Primary Smelting & Refining of Nonferrous Metals.....	6 7
33	Fabricated Metal Products, Except. 5 Machinery & Transportation Equipment (Except as Noted Below) 347.....Coating, Engraving & Allied Services... 3482.....Small Arms Ammunition..... 3483.....Ammunition, Except for Small Arms..... not Elsewhere Classified 3489.....Ordnance and Accessories..... not Elsewhere Classified 349.....Misc. Fabricated Metal Products.....	 8 7 7 7 3 - 6
34	Machinery, Except Electrical.....	5 - 7
35	Electrical & Electronic Machinery, Equipment & Supplies (Except as Note Below) 3391....Storage Batteries. 3692....Primary Batteries, Dry & Wet.	 8 8
36	Transportation Equipment.....	5 - 8
37	Measuring, Analyzing, & Controlling..... Instruments; Photographic, Medical, & Optical Goods; Watches & Clocks (Except as Noted Below) 386.....Photographic Equipment & Supplies.....	 4 - 6 7
38	Misc. Manufacturing Industries.....	3 - 7
39	Electric, Gas & Sanitary Services 491.....Electric Services..... 492.....Gas Production & Distribution..... 494.....Water Supply.....	 3 - 5 3 2

	4952.....Sewage Systems.....	2 - 5
	4953.....Refuse Systems (Landfills).....	5 - 9
	496.....Steam Supply.....	2 - 4

Table 2 - Contaminant Hazard Potential Ranking – Classified by Type		
Description of Chemical Class	Hazard Potential Initial Rating	Class ID Number
Solids		
Ferrous Metals	1-4	1100
Non-Ferrous Metals	1-7	1200
Resins, Plastics, and Rubbers	2	1300
Wood and Paper Materials (except as noted below)	2	1400
Bark	4	1401
Textiles and Related Fibers	2	1500
Inert Materials (except as noted below)	2	1600
Sulfide Mineral – Bearing Mine Tailings	6	1601
Slag & Other Combustion Residues	5	1602
Rubble, Construction, & Demolition Mixed Waste	3	1603
Animal Processing Wastes (except as noted below)	2-4	1700
Processed Skins, Hides, and Leathers	6	1701
Dairy Wastes	4	1702
Live Animal Wastes – Raw Manures (Feedlots)	5	1703
Composts of Animal Waste	2-4	1704
Dead Animals	5	1705
Edible Fruit and Vegetable Remains-Putrescibles	2-3	1800
Liquids		
Organic Chemicals (must be chemically classified)		2000
Aliphatic (Fatty) Acids	3-5	2001
Aromatic (Benzene) Acids	7-8	2002
Resin Acids	--	2003
Alcohols	5-7	2004
Aliphatic Hydrocarbons (petroleum derivatives)	4-6	2005
Aromatic Hydrocarbons (benzene derivatives)	6-8	2006
Sulfonated Hydrocarbons	7-8	2007
Halogenated Hydrocarbons	7-9	2008
Alkaloids	7-9	2009
Aliphatic Amines & their salts	1-4	2010
Anilines	6-8	2011

Table 2 - Contaminant Hazard Potential Ranking – Classified by Type		
Description of Chemical Class	Hazard Potential Initial Rating	Class ID Number
Pyridines	2-6	2012
Phenols	7-9	2013
Aldehydes	6-8	2014
Ketones	6-8	2015
Organic Sulfur Compounds (Sulfides, Mercaptans)	7-9	2016
Organometallic Compounds	7-9	2017
Cyanides	7-9	2018
Thiocyanides	2-6	2019
Sterols		2020
Sugars & Cellulose	1-4	2021
Esters	6-8	2022
Inorganic Chemicals (Must be Chemically Classified)		2100
Mineral & Metal Acids	5-8	2101
Mineral & Metal Bases	5-8	2102
Metal Salts, Including Heavy Metals	6-9	2103
Oxides	5-8	2104
Sulfides	5-8	2105
Carbon or Graphite	1-3	2106
Other Chemical Process Wastes Not Previously List (Must be Chemically Classified)		2200
Inks	2-5	2201
Dyes	3-8	2202
Paints	5-8	2203
Adhesives	5-8	2204
Pharmaceutical Wastes	6-9	2205
Petrochemical Wastes	7-9	2206
Metal Treatment Wastes	7-9	2207
Solvents	6-9	2208
Agricultural Chemicals (Pesticides, Herbicides, Fungicides, etc.)	7-9	2209
Waxes & Tars	4-7	2210
Fermentation & Culture Wastes	2-5	2211
Oils, Including Gasoline, Fuel Oil, etc.	5-8	2212
Soaps & Detergents	4-6	2213
Other Organic and Inorganic Chemicals	2-9	2214
Includes Radioactive Wastes	4-8	2215
Conventional Treatment Process Municipal Sludges		2300
From Biological Sewage Treatment	4-8	2301

Table 2 - Contaminant Hazard Potential Ranking – Classified by Type		
Description of Chemical Class	Hazard Potential Initial Rating	Class ID Number
From Water Treatment & Conditioning Plants (must be chemically classified)	2-5	2302
<p>For individual material ranking, refer to solubility-toxicity tables prepared by Versar, Inc. for the Environmental Protection Agency (Source: MDNR, June 1980.)</p> <p>Source: WMSRDC. A Pollutant Nature Sampling Plan for Groundwater Contamination in Region 14 (Muskegon, MI: West Michigan Shoreline Regional Development Commission, November 1980.)</p>		



MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Ordinance No. 23-O-827 - An ordinance to repeal Ordinance No. 23-O-819, passed February 16, 2023, and declaring an emergency.

EXPLANATION

After legal review, it was determined that neither the City Charter nor City's Codified Ordinances require a Table of Organization to adjust administrative, non-union positions. This legislation will allow for hiring and appropriate staffing in a timelier manner to meet the needed function of the city.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

SOURCE OF FUNDS

EXHIBITS

23-O-827

AN ORDINANCE TO REPEAL ORDINANCE NO. 23-O-819, PASSED FEBRUARY 16, 2023, AND DECLARING AN EMERGENCY.

WHEREAS, the City Manager is pursuing a reorganization of administrative, non-union positions; and

WHEREAS, it is the Law Director's opinion that neither the City Charter nor the City's current codified ordinances require the passage of a Table of Organization ordinance; and

WHEREAS, the City Council exercises appropriate and diligent oversight of authorized personnel positions as a function of setting and overseeing the City's annual budget appropriations; and

WHEREAS, continuing the practice of adopting a new Table of Organization ordinance to reflect staffing changes introduces lengthy time delays in the reorganization and recruitment process; and

WHEREAS, being able to hire and have the appropriate staffing in a timelier manner for needed functions of the city helps to further meet the overall goals of a thriving municipality.

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

Section 1: That Ordinance No. 23-O-819, passed February 16, 2023, and all other Ordinances in conflict with the provisions of this Ordinance be and the same are hereby repealed.

Section 2: That this Ordinance, being an emergency ordinance, shall take effect and be in full force immediately after its passage.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

23-O-827

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-827 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK



MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Ordinance No. 23-O-828 - An ordinance amending the annual salary for the Mayor and the Council Members of the City of Riverside, OH.

EXPLANATION

This legislation will allow the council to amend the annual salaries of the mayor and council members and place this ability to do so within the Administrative code.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

SOURCE OF FUNDS

EXHIBITS

AN ORDINANCE AMENDING THE ANNUAL SALARY FOR THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF RIVERSIDE, OHIO.

WHEREAS, Section 4.06 of the Charter states that salary changes of council Members and the Mayor shall be established by ordinance; and

WHEREAS, Section 4.06 of the Charter states that no ordinance increasing the salaries of the Council Members and/or Mayor shall become effective until the commencement of the terms of council members elected at the next regular municipal election, provided that such election follows the adoption of such ordinance by at least six months; and

WHEREAS, it has been determined to establish an amended salary for the Council Members and the Mayor, and to have this amended amount and a periodic review codified into the City of Riverside Codified Ordinances Chapter 111 – Council, Section 111.03 Council Salaries as indicated in Exhibit A; and

WHEREAS, since the creation of the City of Riverside and the Charter there has been no increase to the salary of the Council Members and the Mayor; and

WHEREAS, due to the volume of work caused by the growth of the city, the rising living costs, the need to establish salaries equal to the salaries of the Council Members and Mayor of cities of comparable size, and the need to attract qualified persons, it is deemed desirable and necessary to increase the compensation of the Council Members and the Mayor.

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

Section 1: That effective January 1, 2024, the annual salary of the Mayor shall be \$12,000, payable monthly; and the annual salary of Council Members elected in 2023, shall be \$8,000, payable monthly.

Section 2: That effective January 1, 2026, the annual salary of the Council Members elected in 2025, shall be \$8,000, payable monthly.

Section 3: That Council shall review the compensation of the Mayor and Council Members no later than March of odd numbered years.

Section 4: That the Clerk of Council forward a certified copy of this Ordinance to the City Manager and Finance Director.

23-O-828

Section 5: This Ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-O-828 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day

CLERK



MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Kathy Bartlett, Public Service Director

SUBJECT: Resolution No. 23-R-2838 – A resolution declaring miscellaneous Public Service Department equipment to be surplus and no longer needed for city purposes and authorizing its sale by sealed bid, a broker, direct sale to a public entity, or auction.

EXPLANATION

This Resolution is to allow the Public Service Department to dispose of equipment no longer needed. Equipment includes:

- 2001 Ford F-450 Medic
Vin # 1FDXE45F21HB16416
Miles 141,330
- 2008 Chevy Malibu
Vin # 1G12T58N78F138180
Miles: 95,083
- Old concrete mixer

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation

FISCAL IMPACT

N/A

SOURCE OF FUNDS

N/A

EXHIBITS

See attached.

A RESOLUTION DECLARING MISCELLANEOUS PUBLIC SERVICE DEPARTMENT EQUIPMENT TO BE SURPLUS AND NO LONGER NEEDED FOR CITY PURPOSES AND AUTHORIZING ITS SALE BY SEALED BID, A BROKER, DIRECT SALE TO A PUBLIC ENTITY, OR AUCTION.

WHEREAS, the City Manager and Public Service Director do report that Miscellaneous Equipment as listed in Exhibit A, is no longer needed for use by the City and should be declared surplus; and

WHEREAS, the City Manager and Public Service Director do recommend that said equipment be sold by sealed bid, a broker, direct sale to a public entity, or auction.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERSIDE, STATE OF OHIO:

- Section 1: That this Council hereby finds and determines that Miscellaneous Equipment as listed in Exhibit A, belonging to the City and assigned to the Public Service Department is no longer needed for municipal purposes and is declared as surplus.
- Section 2: Accordingly, the City Manager is hereby authorized to sell the above described surplus by sealed bid, a broker, direct sale to a public entity, or auction at the best obtainable price or at fair market value if a direct sale.
- Section 3: That the Clerk be and is hereby authorized and directed to forward a certified copy of the Resolution to the City Manager, Finance Director and Public Service Director.
- Section 4: That this Resolution shall take effect and be in force from and after the date of its passage.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

23-R-2838

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-R-2838 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day of _____.

CLERK

23-R-2838 Exhibit A

2001 Ford F-450 Medic
Vin # 1FDXE45F21HB16416
Miles 141,330

2008 Chevy Malibu
Vin # 1G12T58N78F138180
Miles: 95,083

Old concrete mixer



MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Kathy Bartlett, PE Public Services Director

SUBJECT: Resolution No. 23-R-2839 –A resolution authorizing the City Manager of the City of Riverside to enter into preliminary consent legislation with the Ohio Department of Transportation for the rehabilitation of Spinning Road Phase 2 (Eastman to Burkhardt).

EXPLANATION:

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

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached resolution.

FISCAL IMPACT

- Does this item require a new appropriation? No
- What is the total cost, if applicable? \$1,111,365
- Are we receiving any grants/offsets to reduce cost? yes
 - STP=\$508,596
 - OPWC=\$500,000
- What is the net cost impact to the Department/City? \$102,769

SOURCE OF FUNDS

Which fund/line item will be used to pay for this, if applicable?
American Rescue Plan Act Funds

EXHIBITS

See attached Resolution

PRELIMINARY LEGISLATION

Participatory

Rev. 6/26/00

Resolution #: 23-R-2839

PID No.: 116871

County/Route/Section: MOT Spinning Rd Improvement Ph 2

The following is a Resolution enacted by the City of Riverside of Montgomery County, Ohio, hereinafter referred to as the Local Public Agency (LPA).

SECTION I – Project Description

WHEREAS, the (LPA/STATE) has determined the need for the described project:

This project will resurface Spinning Rd from Eastman Ave to Burkhardt Rd in the City of Riverside.

NOW THEREFORE, be it ordained by the City of Riverside of Montgomery County, Ohio.

SECTION II – Consent Statement

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

SECTION II – Cooperation Statement

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

The LPA agrees to participate in the cost of the project. The LPA further agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

The LPA further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

The LPA further agrees to pay 100% of the cost to install and/or repair curb ramps at all necessary intersections to ensure compliance with the Americans with Disabilities Act.

SECTION IV – Utilities and Right-of-Way Statement

The LPA agrees to acquire and/or make available to ODOT, in accordance with current State and Federal regulations, all necessary right-of-way required for the described Project. The LPA also understands that right-of-way includes eligible utility costs.

The LPA agrees to be responsible for all utility accommodation, relocation and reimbursement and agrees that such accommodation, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

SECTION V – Maintenance

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

SECTION VI Authority to Sign

City Manager of City of Riverside is hereby empowered on behalf of the City of Riverside to enter into contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project and to enter into contracts with the Director of Transportation which is necessary to complete the above described project.

Upon request of ODOT, the City Manager is also empowered to assign all rights, title, and interests of the City of Riverside to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

The LPA agrees that if Federal Funds are used to pay the cost of any consultant contract, the LPA shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further the LPA agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The LPA agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The LPA agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

**CERTIFICATE OF COPY
STATE OF OHIO**

The City of Riverside of Montgomery County, Ohio

I, Katie Lewallen, as Clerk of the City of Riverside of Montgomery County, Ohio, do hereby certify that the foregoing is a true and correct copy of Resolution adopted by the legislative Authority of the said City of Riverside on _____. That the publication of such Resolution has been made and certified of record according to Law; that no proceedings looking to a referendum upon such Resolution have been taken; and that such Resolution and certificate of publication thereof are of record in Resolution 23-R-2839.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, if applicable, this day _____.

(CITY SEAL)

Katie Lewallen, Clerk of Council
City of Riverside of Montgomery County, Ohio

(If the LPA is designated as a City, then the "City Seal" is required. If no Seal, then a letter stating "No Seal is required to accompany the executed legislation.)

The foregoing is accepted as a basis for proceeding with the project herein described for the City of Riverside of Montgomery County, Ohio.

Attested: _____ Date _____
Joshua Rauch, City Manager

.....
For the State of Ohio
Attested: _____ Date _____
Director, Ohio Department of Transportation

Passed: _____
(Date)

Attested: _____
Katie Lewallen, Clerk of Council Joshua Rauch, City Manager

Attested: _____
Law Director, City of Riverside, OH Peter Williams, Mayor

The Resolution is hereby declared to be an emergency measure to expedite the highway project and to promote highway safety. Following appropriate legislative action, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.



MEETING DATE: April 20, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Chris Lohr, Assistant City Manager

SUBJECT: Resolution 23-R-2840 - A Resolution Authorizing the City to Join the Sustainable Ohio Public Energy Council ("SOPEC").

EXPLANATION

This Resolution allows the City Manager to enter into an agreement to join the Sustainable Ohio Public Energy Council (SOPEC). This, along with the passage of Ordinances adopting plans of operation and governance, substantially completes the process of implementing electric and natural gas aggregation programs for the community.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

None.

SOURCE OF FUNDS

N/A

EXHIBITS

SOPEC Agreement and Bylaws

A RESOLUTION AUTHORIZING THE CITY TO JOIN THE SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL (“SOPEC”).

WHEREAS, the City Council of Riverside has previously enacted legislation to establish electric and natural gas aggregation programs for the residents, businesses, and other eligible consumers located within the City; and

WHEREAS, by joining the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council) (“SOPEC”), the City will be able to act jointly with other members of political subdivisions and thereby maximize the potential benefit of electric and natural gas group purchasing efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERSIDE, STATE OF OHIO:

Section 1: The City Council finds and determines that it is in the best interest of the City, including the electric and natural gas consumers located within the City, to join SOPEC and to adopt the SOPEC Bylaws, for the purpose of establishing and implementing electric and natural gas aggregation programs within the City.

Section 2: The City Manager is hereby authorized and directed to execute and deliver the Agreement Establishing the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council) (the “SOPEC Agreement”). The SOPEC Agreement shall be substantially in the form presented to this City Council and on file with the Clerk, subject to such changes, insertions, and omissions that are consistent with this Resolution and are not substantially adverse to the City and as may be approved by the City Manager, which approval shall be conclusively evidenced by the execution of the SOPEC Agreement.

Section 3: The City Council hereby approves and adopts the Bylaws of SOPEC in the form attached to the SOPEC Agreement

Section 4: That this Resolution shall take effect and be in force from and after the date of its passage.

PASSED THIS DAY OF _____.

23-R-2840

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-R-2840 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day

CLERK

AMENDED AND RESTATED AGREEMENT
ESTABLISHING THE
SOUTHEAST OHIO PUBLIC ENERGY COUNCIL
(DBA SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL)

This AMENDED AND RESTATED AGREEMENT is made and entered into as of October 8, 2014, as amended and restated as of November 17, 2022 ("Agreement"), by and among the political subdivisions identified below.

RECITALS:

WHEREAS, Ohio Revised Code Chapter 167 provides that the governing bodies of two or more political subdivisions may enter into an agreement establishing a regional council of governments for purposes that include promoting cooperative agreements and contracts among members and other governmental agencies and private persons, corporations, or agencies.

NOW, THEREFORE, in consideration of the services to be made available to and by the Southeast Ohio Public Energy Council (dba Sustainable Ohio Public Energy Council), also referred to herein as "SOPEC," it is agreed by and between the Members of SOPEC and any additional political subdivisions that may hereafter become Members as follows:

Section 1. Definitions.

Definitions of terms used in this Agreement and Amended and Restated Bylaws ("Bylaws") are set forth on Exhibit A hereto.

Section 2. Name.

The name of the council of regional governments that comprises all Members shall be the "Southeast Ohio Public Energy Council," which also may do business under one or more trade names, including the Sustainable Ohio Public Energy Council.

Section 3. Members.

Members of SOPEC shall be set forth on Exhibit B hereto, and shall include any other political subdivisions which become members of SOPEC pursuant to Bylaws established pursuant to Section 6 of this Agreement. Each Member shall have one representative to the Assembly, as further set forth in the Bylaws.

Section 4. Purpose: The Aggregation Programs; Additional Programs of the Council.

The purpose of this Agreement is to allow Members to collectively pursue the benefits of the Aggregation Programs and Additional Programs of the Council that the Council may establish. The Council may negotiate and enter into all necessary programs, contracts and take any necessary and incidental actions to effect and carry out the purposes of the Aggregation Programs for the benefit of the Members and their respective electricity and natural gas consumers. The Members will act jointly through the Council to establish and implement the Aggregation Programs and the Board of Directors may establish Additional Programs of the Council, as set forth in the Bylaws.

Section 5. Fiscal Year.

The fiscal year for SOPEC shall be the twelve month period beginning January 1 and ending December 31.

Section 6. Adoption of Bylaws.

Within ninety (90) days of adoption of this Agreement, Members shall meet for the purpose of adopting Bylaws of SOPEC. The Bylaws shall address the purposes of SOPEC, its governance, addition and withdrawal of members, adding new programs, and other governance issues including SOPEC's decision-making process and the designation of its fiscal agent.

Section 7. Withdrawal and Inclusion of Members.

All issues pertaining to the withdrawal of existing Members or inclusion of new Members shall be governed by the Bylaws.

Section 8. Amendments.

This Agreement may be amended subject to the majority vote of the signatory Members to the Agreement, until the adoption of Bylaws pursuant to Section 6 of this Agreement, at which time all amendments to this Agreement will be subject to the provisions set forth in the Bylaws.

Section 9. Term and Termination.

It is the intention of the Members that this Agreement shall continue for an indefinite term, but may be terminated subject to the provisions set forth in the Bylaws.

Section 10. Effective Date.

This Agreement shall take effect initially this 8th day of October, 2014, as amended and restated effective November 17, 2022. This Agreement, as amended, may be signed in separate counterparts on behalf of one, or more than one, of the Members, and may be signed

electronically, without the necessity for any one counterpart to be signed on behalf of all Members.

A handwritten signature in blue ink, reading "Chris Chmiel", written over a horizontal line.

The Honorable Chris Chmiel,
Athens County Commissioner
Chairman of the Board of Directors

A handwritten signature in blue ink, reading "Steve Patterson", written over a horizontal line.

The Honorable Steve Patterson
Mayor of Athens
Vice Chair of the Board of Directors

EXHIBIT A

As used in this Agreement and in the Bylaws the following words shall have the following meanings:

“Additional Program” means any other cooperative program the Council may establish, with approval of the Council’s Board of Directors, under an Additional Program Agreement.

“Additional Program Agreement” means any agreement among some or all Members, and such non-members as may be permitted to participate, establishing an Additional Program in accordance with Section 9 of the Bylaws.

“Additional Program Costs” means, with respect to any Additional Program of the Council, all costs incurred by the Council or the Fiscal Agent of the Council, in connection with the activities and operations of that Additional Program, as defined in the corresponding Additional Program Agreement; provided, however, that no Member shall be assessed Additional Program Costs if the Member is not participating in such Additional Program.

“Advisory Committee” means any committee established by the Board of Directors pursuant to the Bylaws to advise the Board of Directors or the Fiscal Agent with respect to the management and operation of any Program. The Board of Directors shall define the duties of each Advisory Committee.

“Aggregation Costs” means all costs incurred by the Council or by the Fiscal Agent in connection with the activities and operation of the Council for the Aggregation Programs; provided, however, that no Member shall be assessed Aggregation Costs unless such assessment is imposed on all Members and approved at a meeting of the Assembly by a majority vote of all Members.

“Aggregation Fund” means the fund established and maintained by the Fiscal Agent of the Council as a separate fund pursuant to Section 10 of the Bylaws, into which the Fiscal Agent shall deposit any and all moneys contributed by the Members for Aggregation Costs of the Council, if any.

“Aggregation Programs” means the cooperative programs for the benefit of the Members acting as governmental aggregators to arrange for the purchase of electricity by electric customers and natural gas by natural gas customers in the political subdivisions that join the Southeast Ohio Public Energy Council, pursuant to the terms of Ohio Revised Code Section 4928.20, and this Agreement.

“Agreement” means this agreement, as the same may be amended, modified, or supplemented in accordance with Section 8 hereof.

“Assembly” means the legislative body of the Council established pursuant to, and having those powers and duties enumerated in, the Bylaws.

“Bylaws” means the regulations adopted by the Council pursuant to Ohio Revised Code Section 167.04 and this Agreement, as the same may be amended, modified, or supplemented in accordance with Section 13 thereof.

“Council” means the Southeast Ohio Public Energy Council (dba as Sustainable Ohio Public Energy Council) established by this Agreement.

“Fiscal Agent” means the person or organization designated by the Members of the Council to receive, deposit, invest and disburse funds contributed by the Members or otherwise received by the Council, for the operation of the Council and its Programs, in accordance with this Agreement, the Bylaws and any applicable Program Agreement. The Council may serve as its own Fiscal Agent.

“Fiscal Year” means the twelve (12) month period beginning January 1 and ending December 31.

“Member” means any municipal corporation, county, township, or any other political subdivision under the laws of the State of Ohio which pursuant to duly adopted legislation, has caused this Agreement to be executed in its name, which Member shall be listed on Exhibit B hereof, including any additional municipal corporation, county, township, or any other political subdivision under the laws of the state of Ohio which has caused this Agreement to be executed in accordance therewith, and has not withdrawn from the Council pursuant to this Agreement or the Bylaws.

“Program” means an Aggregation Program or any Additional Program.

EXHIBIT B

Current List of SOPEC Communities & Political Subdivisions

Athens County

Athens County
City of Athens
Village of Albany
Village of Amesville
Village of Buchtel
Village of Chauncey
Village of Jacksonville
Village of Trimble

Gallia County

City of Gallipolis
Village of Rio Grande

Hocking County

City of Logan

Meigs County

Village of Racine

Montgomery County

City of Dayton

Morgan County

Village of Chesterhill

Perry County

Village of Glenford
Village of Shawnee
Village of Somerset
Village of New Straitsville

Washington County

City of Belpre
Village of Lowell

Political Subdivisions

Muskingum Watershed Conservancy District

AMENDED AND RESTATED BYLAWS
GOVERNING THE
SOUTHEAST OHIO PUBLIC ENERGY COUNCIL
(DBA SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL)

WHEREAS, certain municipal corporations, counties, townships, and other political subdivisions under the laws of the State of Ohio (each, a “Member”) entered into an Agreement Establishing the Southeast Ohio Public Energy Council, also referred to herein as “SOPEC”, which also may do business under one or more trade names, including the Sustainable Ohio Public Energy Council, (the “Agreement”) pursuant to Ohio Revised Code Chapter 167, for the purpose of carrying out the Aggregation Programs pursuant to Ohio Revised Code Section 4928.20, and any Additional Programs which the Members or Board of Directors of the Council may approve, from time to time, and which are authorized under the laws of the State; and

WHEREAS, Ohio Revised Code Section 167.04 requires and the Agreement provides that the Council shall adopt Bylaws designating the officers of the Council and the method of selection thereof, creating a governing board to act for the Council, appointing a fiscal officer, and providing for the conduct of the Council’s business; and

WHEREAS, each Member has by duly adopted legislation authorized its representative to approve these Bylaws, and the representatives of the Members have met for the purpose of adopting and amending these Bylaws in accordance with Ohio Revised Code Section 167.40 of the Agreement.

NOW, THEREFORE, the following provisions shall constitute the Bylaws of the Council:

Section 1. Definitions.

Any capitalized word or phrase used in these Bylaws and not otherwise defined herein, shall have the meaning given in Exhibit A of the Agreement as the Agreement may, from time to time, be amended, modified, or supplemented in accordance with Section 13 hereof.

Section 2. Inclusion of Members.

Any municipal corporation, county, township, or any other political subdivision under the laws of the State of Ohio may apply to become a Member of the Council by submitting an application in writing to the Board of Directors, accompanied by duly adopted legislation authorizing inclusion in the Council, execution of this Agreement and approval of the Bylaws. The Board of Directors shall review the application and by duly adopted resolution, the applicant municipal corporation, county, township, or other political subdivision under the laws of the State of Ohio shall be included in the Council and deemed a Member hereunder if its inclusion is

approved by the affirmative vote of at a least majority of the Board and the applicant municipal corporation, county, township, or other political subdivision under the laws of the State of Ohio executes the Agreement. The applicant shall thereafter be a Member and, if then applicable, may be assessed its portion of the Aggregation Costs by the same method and using the same formula as any other Member, in accordance with the Agreement and Bylaws.

Section 3. Withdrawal of a Member.

- (A) Any Member wishing to withdraw from membership in the Council shall notify the Council in the manner described in Section 3(C) hereof and such withdrawal shall, except as otherwise provided in this Section 3, cause such Member's membership in the Council to be terminated. Such termination shall not be effective until the end of the applicable opt-out period as to any electricity or natural gas aggregation program of the Council under which service is being provided to customers in the Member's community.
- (B) Any Member wishing to withdraw from participation in any Program of the Council shall notify the Council at least ninety (90) days before the end of the applicable opt-out period for the Council's electricity or natural gas program in the manner described in Section 3(C) hereof. A withdrawal from participation in a Council Program is not a withdrawal from Membership as long as the Member continues to participate in at least one Council Program.
- (C) Any notification of withdrawal of a Member from Membership in the Council or from participation in a Council Program must:
 - (i) be given in writing to the Council at least ninety (90) days before the end of the applicable opt out period for the Council's electricity and natural gas programs; and
 - (ii) include a certified copy of duly adopted legislation of the governing body of the withdrawing Member authorizing such withdrawal.
- (D) After withdrawal from membership in the Council, the withdrawing Member may not become a Member again until it has fully complied with the procedures contained in Section 2 hereof.

Section 4. Assembly.

The Assembly shall be the legislative body of the Council. The Assembly shall be composed of the representatives of the Members. Each Member shall have one representative to the Assembly, who: (i) in the case of municipal corporations, shall be the mayor or manager or

an appointee of such officer; or (ii) in the case of counties, townships, or any other political subdivisions under the laws of the State of Ohio, shall be a person of its governing board or an officer chosen by such governing board. All representatives to the Assembly shall serve without compensation.

An Assembly representative may designate another Assembly representative as a proxy at any meeting by delivering (which may be done electronically) to the Chairman of the Council a written designation of that proxy.

- (A) **Officers.** The officers of the Board of Directors shall be the officers of the Council and its Assembly and shall consist of a Chairman, Vice-Chairman, and Treasurer, who each shall be selected pursuant to Section 5 hereof. The Chairman (and in the Chairman's absence, the Vice-Chairman) shall preside at Assembly meetings. If for any reason the offices of the Chairman and Vice-Chairman are vacant, the person serving as Executive Director, if any, shall preside as temporary Chairman until a Chairman is elected by the Board of Directors. If the Council does not have an Executive Director and the offices of the Chairman and Vice-Chairman are vacant, the person serving as Fiscal Agent or their designee shall preside as temporary Chairman until a Chairman is elected by the Board of Directors.
- (B) **Resolutions.** A majority of all representatives to the Assembly (including proxies delivered to the Chairman) shall constitute a quorum to transact business except as otherwise provided in the Agreement or these Bylaws. Each representative (including the Chairman and Vice-Chairman) shall have one vote; provided, however, that when a matter is to be voted upon which is of concern to only one or more but not all Programs of the Council, only representatives of participating Members of those Programs shall be entitled to vote on that matter and only those representatives shall be counted for purposes of determining whether a quorum is present. All legislative action of the Assembly shall be by resolutions entered on its records. Except as otherwise provided in the Agreement, the affirmative vote of at least a majority of all of the representatives to the Assembly eligible to vote on a matter (not counting vacancies) shall be required for the enactment of every resolution. Unless otherwise specifically stated in the resolution, all resolutions shall be effective immediately upon enactment, subject to any authorizations or certifications required by the Ohio Revised Code to be made by the Fiscal Agent or the Members.
- (C) **Meetings.** The Assembly shall meet on a day of each November designated by the Board of Directors and at such other times as may be required by the Chairman or as may be requested, in writing to the Executive Director, by any two (2) or more Directors. Written notice of each meeting shall be served by the Executive Director upon each Assembly representative not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject or subjects to be considered at the meeting. The requirements

of and procedures for notice may be waived in writing by each representative and any representative shall be deemed conclusively to have waived such notice with respect to a meeting by their attendance at that meeting. At the request of the Chairman and with the approval of a majority of the Directors, the annual meeting of the Assembly may be rescheduled to such other dates as may be so approved by the Board of Directors; provided, however, that actions required by this Agreement to be taken by the Assembly at its annual meeting are taken by the Assembly within thirty days of the scheduled annual meeting date in November.

Pursuant to Ohio Revised Code Section 121.22(F), the Assembly shall by rule, establish a reasonable method whereby any person may determine the time, place, and purpose of its meetings. All meetings of the Assembly shall be open to the public, subject to the exceptions in Ohio Revised Code Section 121.22(G). The Assembly may, but need not, adopt other rules.

(D) Powers and Duties of Assembly.

- (1) At its annual meeting, the Assembly shall review the annual report of the Council, including but not limited to, the financial status of the Council's operation, operation of the Aggregation Programs, and any Additional Program being considered.
- (2) At its annual meeting, the Assembly shall consider, upon submission by the Board of Directors, and thereafter modify, if necessary, and approve the annual appropriations of the Council for the next Fiscal Year based upon the estimate of Aggregation Costs and any Additional Program Costs determined. The Board of Directors shall have the authority to revise the appropriations between Assembly meetings.
- (3) At its annual meeting, the Assembly shall select the Directors for the Board of Directors for the next Fiscal Year in accordance with Section 5 hereof.
- (4) The following matters shall be submitted to the Assembly and are subject to final approval by the Assembly: the annual appropriations of the Council for each Fiscal Year; selection of the Board of Directors; assessment of Aggregation Costs to Members, and such other matters of the Board of Directors or the Assembly may, from time to time, determine to be matters requiring approval by the Assembly.

Section 5. Board of Directors.

The Board of Directors shall be the policy making body of the Council.

- (A) **Composition.** The Board of Directors shall be composed of at least five (5) Directors which shall include the five (5) Members in the Council featuring the largest populations as measured at the most recent decennial U.S. Census. The Board of Directors also shall be composed of up to one additional Director representing each region of the Council, as designated by the Board, up to, and not to exceed five (5) regions, of Members in the Council, who shall be an Assembly representative and shall be elected by the Assembly representatives of each respective region at the annual meeting of the Assembly, provided that the affirmative vote of at least a majority of the representatives to the Assembly of each such region shall be required to elect any Director of such region. In the event a Member in the Council is one of the five (5) largest populations in the Council and is also the only Member in its region, there shall be no second Director position filled for such region. In the event that each region is represented and one or more Director positions remain to be filled, those Director positions shall be filled by representatives receiving an affirmative vote of at least a majority of the Assembly. In addition, there shall be up to five (5) Directors at-large, elected by the affirmative vote of at least a majority of the representatives to the Assembly. No Member in the Council shall have more than one (1) Director representative.

In no event shall there be more than fifteen (15) Directors.

The Fiscal Agent of the Council may attend all meetings of the Board of Directors but shall not have a vote.

- (B) **Terms of Office.** Assembly representatives elected to serve on the Board of Directors at the first organizational meeting shall serve the following terms of office: Half, or as close as possible to half, of the Directors shall each serve a two-year term and the other half, or as close as possible to half, shall each serve a one-year term. Thereafter, any Assembly representative elected to serve on the Board of Directors shall serve a two (2) year term of office. If the number of Directors is increased (not to exceed six (6) regions in total) as a result of an increase in the number of regions represented by the membership in the Council, then the terms of those additional Directors shall be set by the Board so that half, or as close as possible to half, of the Directors shall be elected every year. There shall be no limit to the number of terms to which a person may be elected or appointed. All Directors (exclusive of ex-officio members) shall serve without compensation.

In the event that a vacancy occurs on the Board of Directors, the remaining Directors shall meet and appoint an Assembly representative to fill the vacancy until the next meeting of the Assembly at which elections of Directors are held.

- (C) **Meetings.** The Board of Directors shall hold regular meetings not less than once per calendar quarter at such times as may be determined by the Board or the

Chairman. Special meetings shall be held at such other times as may be requested by the Chairman. Written notice of each meeting shall be served by the Executive Director upon each Director not less than twenty-four (24) hours preceding the time for the meeting, and shall state the date, time, and place of the meeting and subject to be considered at the meeting. The requirements of and procedures for notice may be waived in writing by each Director and any Director shall be deemed conclusively to have waived such notice with respect to a meeting by their attendance at that meeting. An organizational meeting of the Board of Directors shall be held after the Agreement Establishing SOPEC is approved by the first three (3) member organizations.

- (D) **Attendance.** Directors are expected to attend Board meetings. Any Director who is absent from three (3) Board meetings without excuse or without providing their proxy during a twelve-month period is subject to removal from the Board. The remaining Directors shall meet and appoint a person to fill the vacated seat until the next meeting of the General Assembly at which elections of Directors are held.
- (E) **Officers.** At its first meeting in each Fiscal Year, the Board of Directors shall convene and organize. The Chairman of the Board shall be elected to serve a one-year term by the Board of Directors from its Directors by majority vote of all its Directors. The Chairman whose term has expired shall preside as temporary Chairman until the Chairman is elected. In the absence of the prior Chairman, the prior Vice-Chairman shall be elected to serve a one (1) year term by the Board of Directors by a majority vote of its Directors.
 - (1) **Chairman.** The Chairman shall preside at all meetings of the Board of Directors and the Assembly. The Chairman's duties shall also include, but not be limited to: preparing agendas for each meeting of the Board of Directors and arranging for distribution of such agendas so that each Director receives an agenda at least seven (7) days in advance of each regularly scheduled Board meeting and as soon as practical before any specially scheduled Board meeting; and presenting an annual report to the Assembly at its annual meeting, or distribution of such report to the Members, concerning the activities and operations of the Council. In the event of a tie on matters subject to a vote of the Board of Directors, the Chairman shall cast the tie-breaking vote.
 - (2) **Vice-Chairman.** In the absence of the Chairman, the Vice-Chairman shall preside at meetings of the Board of Directors and the Assembly. The Vice-Chairman shall succeed to the office of the Chairman, should that office be vacated before the end of a term, and shall assist the Chairman in the discharge of their duties.

- (3) **Treasurer.** The Treasurer shall oversee the financial operations of the Council and shall oversee the Council's Fiscal Agent and Fiscal Officer in connection therewith.
- (4) **Executive Director.** The Executive Director or their designee shall provide written notice to all Directors on the Board of Directors of all meetings of the Board in accordance with paragraph (C) of this Section. Minutes of all meetings of the Board shall be kept by the Executive Director or their designee and distributed to each Director within thirty (30) days following each Board meeting. The Executive Director or their designee shall provide Assembly Members with written notice of all Assembly meetings in accordance with Section 4 hereof. The Executive Director shall perform such other duties as the Chairman may request. If no Executive Director is hired, the above assignments will be performed by the Fiscal Agent. If the Board of Directors decides to hire a chief executive officer for the Council, then this person will be titled the Executive Director. The Board of Directors shall provide a job description for this position.
- (5) **Fiscal Agent.** The Board of Directors shall provide for the employment of a Fiscal Agent either by:
- (a) contracting with a Member; or
 - (b) hiring a person to perform the duties of the Fiscal Agent, who shall be the Fiscal Officer. Separate Fiscal Agents may be hired to handle specific Programs or assigned to the Fiscal Officer if such employee is hired. The Fiscal Agent shall receive and disburse all funds of the Council, prepare all necessary fiscal reports for the Board of Directors and the Assembly, and undertake all other financial transactions necessary to the work of the Council; or
 - (c) designating the Council as its own Fiscal Agent.

The Fiscal Agent of the Council shall obtain and keep in force a fidelity bond, in an amount determined by the Board of Directors and with a surety company approved by the Board of Directors, or, in lieu of a separate fidelity bond, the Board of Directors may direct the Fiscal Agent to continue and keep in force any existing fidelity bond the Fiscal Agent may have which the Board of Directors determines to be adequate. In either case, the Council shall be named as an insured on such bond and the amount thereof shall not be reduced without prior written consent of the Board of Directors.

The Fiscal Agent and the Executive Director may be held by the same person or by two different persons.

(F) **Powers and Duties of the Board of Directors.** The Board of Directors shall have the authority to:

- (1) Consider and approve any purchases of equipment, facilities, or services for the Council, and employment of personnel by the Council; provided that the cost thereof is within the Aggregation Costs approved by the Assembly.
 - (a) Make recommendations to the Assembly concerning any matter relating to the Council and its Programs, including but not limited to:
 - (i) amendments to or modifications of the Agreement and Bylaws;
 - (ii) appropriations of the Council; and
 - (iii) disqualification of Members.
- (2) Direct the Fiscal Agent concerning any disbursements from the Aggregation Fund.
- (3) By affirmative vote of a majority of Directors and upon certification to the Board by the Fiscal Agent that the proposal is within the limits of the Council's resources, amend the budget and appropriations of the Council.
- (4) Approve the inclusion of additional Members into the Council.
- (5) Enter into any and all necessary and incidental contracts to facilitate the aggregation of the retail electric and natural gas loads within the jurisdiction(s) of the Members.
- (6) Approve and authorize any new Program of the Council and the terms and conditions of any Program Agreement, including eligibility of any Member or non-member to participate in any such Program, and costs thereof, if any, under any such Program Agreement.
- (7) Enter into any and all necessary and incidental contracts to carry out all Programs of the Council; and
- (8) Establish one or more standing or Advisory Committees of the Board of Directors.

Section 6. Advisory Committees.

One or more Advisory Committees may be appointed by the Board of Directors to assist the Board of Directors in the management of any Program of the Council. The members of an Advisory Committee shall be appointed by and shall serve at the pleasure of the Board of Directors. Each Advisory Committee shall perform the duties directed by the Board of Directors.

Each Advisory Committee shall elect from its membership a Chairman and Vice-Chairman, who shall each serve for a term of one (1) year or such shorter period of time as the Advisory Committee may be in existence. The Chairman shall preside at all Committee meetings and prepare the agenda for each meeting following consultation with the Executive Director or Board of Directors. In the absence of the Chairman, the Vice-Chairman shall preside at Committee meetings. The Vice-Chairman shall succeed to the office of the Chairman, should it be vacated before the end of a term, and shall assist the Chairman in the discharge of the Chairman's duties.

Each Advisory Committee shall make recommendations to the Board of Directors concerning any matter referred to it by the Board of Directors.

Section 7. Employees and Consultants.

The Board of Directors may employ the Fiscal Agent and the Executive Director for the Council. In addition, the Board of Directors may employ other persons and may contract for the services of independent contractors, consultants, legal counsel, or experts as the Board of Directors deems necessary or appropriate for the proper operation and administration of the Council and its Programs. Any staff employed by the Council shall be determined by the Board of Directors to have the educational background and work experience necessary to discharge the duties assigned to that person by the Board of Directors. The Board of Directors shall establish the salaries, benefits, and work and disciplinary rules for the Council's staff, and shall direct the hiring and discharge of that staff. The Board of Directors of the Council may designate the Executive Director to be responsible for the supervision of the Council's staff. The salaries and independent contractors, consultants, legal counsel, or experts shall be paid either as Aggregation Costs or Additional Program Costs from their respective accounts as determined by the Board of Directors.

Section 8. Equipment and Facilities.

The Council may purchase, lease, or otherwise provide supplies, materials, equipment, and facilities as it deems necessary and appropriate to carry out the Programs of the Council. The Council shall comply, to the extent applicable, with the provisions of the Ohio Revised Code with respect to the procedures for bidding and letting of contracts for the acquisition, repair, or improvement of its facilities, equipment, and supplies. The Fiscal Agent of the Council shall, at the direction of and on behalf of the Board of Directors, enter into all contracts or leases for supplies, materials, equipment, or facilities of the Council.

Section 9. The Aggregation Programs: Additional Programs of the Council.

The Members will act jointly through the Council to establish and implement the Aggregation Programs pursuant to Ohio Revised Code Section 4928.20. Each Member has adopted legislation, and approval by the electors of each Member has been or will be obtained, authorizing the Aggregation Programs. Upon certification of the Members or the Council by the PUCO, as may be applicable, the Council, on behalf of the Members, may effect the aggregation of the retail electric and natural gas loads located within the jurisdictions of the Members. The Council may negotiate and enter into all necessary contracts and take any other necessary and incidental actions to effect and carry out the purposes of the Aggregation Programs for the benefit of the Members and their respective electricity and natural gas consumers.

The Board of Directors shall oversee and manage the operation of the Aggregation Programs and may adopt policies and procedures supplementing the general terms of this Agreement and the Bylaws.

The Board of Directors shall develop a plan of operation and governance for the Aggregation Programs pursuant to Ohio Revised Code Section 4928.20 to be adopted by each Member.

The Council may establish, in addition to the Aggregation Programs, such other Additional Programs as the Board of Directors may approve. Each Additional Program shall be established by an Additional Program Agreement among the Members or non-members of the Council whose governing bodies have determined to participate in the Additional Program and have approved an Additional Program Agreement. Each Additional Program Agreement shall be reviewed and approved by the Board of Directors prior to execution by any Member or non-member.

Each Additional Program Agreement shall include but not be limited to provisions that:

- (A) Direct the Board of Directors concerning the management of the Additional Program and define matters which must be submitted to the participating Members for decision;
- (B) Establish procedures for budgeting Additional Program Costs and apportioning Additional Program Costs among the participating Members and non-members;
- (C) Establish one or more funds into which all monetary contributions for Additional Program Costs shall be deposited;
- (D) Determine the method and timing of inclusion of additional participating Members and non-members;
- (E) If determined to be necessary or desirable, appoint a Fiscal Agent for the Additional Program different from the Fiscal Agent for the Council; and
- (F) Determine the disposition, upon termination of the Additional Program, of any supplies, equipment, facilities or moneys held in connection with the operation of the Additional Program.

Section 10. Conduct of Meetings.

All meetings provided for in these Bylaws shall be conducted in accordance with the latest edition of Robert's Rules of Order, Revised unless otherwise directed by these Bylaws or by resolution of the Assembly, the Board of Directors, or any Advisory Committee with respect to the meetings of each of those bodies. The Chairman of each of those bodies shall be the parliamentary procedure officer and their decisions with respect to matters of parliamentary procedure shall be final. If permitted by Ohio law, all meetings provided for in these Bylaws may be conducted electronically.

Section 11. Amendment to Agreement or Bylaws.

The Agreement may be modified, amended, or supplemented in any respect not prohibited by law upon the approval of the modification, amendment, or supplement by the representatives of at least two-thirds (2/3) of the Members; and the amendment, modification, or supplement shall thereupon become binding upon all Members.

These Bylaws may be modified, amended, or supplemented in any respect upon approval of the modification, amendment or supplement by at least two-thirds (2/3) of the Members' representatives, and the approved amendment, modification, or supplement shall only thereupon become binding upon all Members.

Section 12. Termination of the Agreement.

In the event that the governing bodies of eighty percent (80%) of the Members, by duly adopted legislation, determine that the Agreement shall be terminated, the Board of Directors shall meet within thirty (30) days following its receipt of certified copies of the legislation. At that meeting, the Board of Directors shall determine the date upon which the Agreement and the activities and operations of the Council shall terminate and make recommendations to the Assembly with respect to any matter which must be resolved in connection with the termination of the Council and which is not addressed by the Agreement, the Bylaws, or any Program Agreement.

Upon termination of the Agreement, any Additional Program Agreement shall automatically terminate. After payment of all known obligations of the Council in connection with each Additional Program, any surplus remaining in any Additional Program fund shall be distributed among the participating Members in the manner provided in the Additional Program Agreement. After payment of all known obligations of the Council, any surplus remaining in the Aggregation Fund shall be distributed among the Members participating in the Aggregation Programs proportionally based on the number of electric and natural gas accounts enrolled in the Aggregation Programs prior to the date upon which the Board of Directors determines that the Agreement and activities and operations of the Council shall terminate in accordance with this Section 12.

No Member shall be required, by or under the Agreement or the Bylaws herein, by an amendment or otherwise, to pay any sum upon termination hereof, unless it shall have expressly agreed thereto.

Section 13. Initial Operation of the Council.

In the first Fiscal Year of the Council's operation, actions required by these Bylaws to be taken at the annual meeting of the Assembly or the first meeting of the Board of Directors shall be taken as soon as practical upon the establishment of the Council.

ADOPTED this 27th day of October, 2014.

AMENDED January 22, 2015.

AMENDED January 23, 2018.

AMENDED June 27, 2018.

AMENDED February 18, 2021.

AMENDED November 17, 2022.

SOUTHEAST OHIO PUBLIC ENERGY COUNCIL
(DBA SUSTAINABLE OHIO PUBLIC ENERGY COUNCIL)

CITY MANAGER

PREVIOUS

UPDATES

MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Josh Rauch, City Manager
DATE: March 31, 2023
SUBJECT: Weekend Update
CC: Department Directors, City Clerk, Law Director

City Manager's Office

- Kim Baker, our new Finance Administrator, is off to a strong start this week. We're very glad to have her aboard – welcome Kim!
 - Kim will be at next week's Council meeting for introductions.
- **I received word this week that Congressman Turner's office is interested in giving the City of Riverside direct congressional funding (CPF Funding) to help complete redesign of the Woodman corridor from Airway to Springfield St.** This funding will bridge the gap from the 30% designs paid by the SS4A grant to 100% fully designed, and it will enable us to estimate construction costs and pursue construction more rapidly. **Many thanks to Congressman Turner for supporting our infrastructure.** This is another significant win for our community!
 - The specific funding amount and final award are subject to some ongoing process, including the passage of a federal budget...but it is very exciting that we are being included at this point. We are working with the TID and the Congressman's office to finalize details.
- Kathy and I had a good meeting with Woolpert this week regarding WPAFB plans to redesign nearby gates to improve commercial vehicle traffic and address current passenger traffic backups. Nothing is final, but we were able to provide good context about our land use plan, Springfield St., and the improvement's we're pursuing on Woodman/Harshman.
- I met with Chad Wyen and Jerry Ellender at MRLS this week regarding intergovernmental service sharing and will provide Council with an update at next week's meeting.
- Next Thursday and Friday I'll be in Columbus for the Ohio City Management Association's annual conference. I'll commute back and forth so I can make next Thursday's meeting.

Administration

- **New Conference Room Chairs-** The original chairs for the large conference room were seeing significant wear so they have been replaced. Thanks to the Service Department for helping us get those assembled!
- **Aggregation Process Update-** First readings of the Ordinances to adopt the SOPEC Plans of Operation and Governance for Electric and Natural Gas will be on the April 6th Council agenda.
- **Continuing Network Improvements-** TechAdvisors is evaluating and reorganizing Active Directory network and e-mail access with an eye to future moves to cloud-based services.

- **Classification and Compensation Study-** Job descriptions and compensation survey are being completed now. This will allow for the compensation surveys to go out to comparable jurisdictions in April.

Community Development Department

- The initial claim for 2413 Valley emergency demolition was mailed out this week. CenterPoint Energy is working to get the gas turned off properly at the main and capped.
- The Public Nuisance notice for the Christy Club was served via personal service on Wednesday. Notice was also mailed certified through USPS.
- A Public Nuisance notice was sent to the property owners of 5311 Logan St. A final determination notice of a Public Nuisance has been posted and sent to 509 Waneta Ave.
- Lane has begun a deep dive into the deeds looking for any livestock, chicken or agricultural use deed restrictions which might impact certain neighborhoods within Riverside.

Finance Department

- Tom is out for a few weeks beginning March 30.
- Kim is jumping in the deep end and quickly getting oriented on a number of processes and projects. Going forward, she'll be our primary point of contact/project manager for SSI VIP and ClearGov software implementation.

Fire Department

- Attended dispatch meeting with Huber Height Communications reference the new system and operations.
- Began coordinating Radio IP VPN implementation on the new servers with PD and Tech Advisors
- Attend Flying Ace Ribbon Cutting. Received donations from Chamber of Commerce and Mid America management.

Police Department

- Keeping this on the radar, Upcoming event at St. Helens. The festival is June 9,10, and 11.
- Also coming up on August 1st, National Night Out. We are starting to prepare.
- The Police Department assisted the Secret Service with security while FLOTUS was here in Riverside. Five uniformed officers and two undercover officers assisted with the visit of Dr Jill Biden.
- 4 officers assigned to detail for college night at Oddbods. No problems and kept the occupancy at 200 or less.
- Recovered stolen Puma RV from 509 Waneta approximate value 55,000. – ID 9 people from the house all have criminal history.
- Grand re-opening of Flying Aces today, Friday 3/31/2023.

Public Service Department

Engineering/Administration:

- Attended monthly project update meeting with Choice One
- Attended SS4A Woodman Corridor Study kickoff meeting with FHWA
- Attended planning meeting hosted by Woolpert for Wright Pat commercial access gate, possibly off East Springfield
- Held monthly Service Dept. staff meeting
- Collected letters of support for additional funding for Woodman Phase 4
- Invoice for Beatrice Drive lighting has been processed.
- Our EPA MS4 Annual Report was submitted for 2022.

Projects:

- Woodman & Eastman signal electric service poles have been set along Eastman. Power should be connected to the signal next week.
- Woodman & 35 project: Removal of the north bound lane will begin next week. All traffic will be confined to the south bound lanes (one lane in each direction).
- Working on providing an itemized list of contents to City's Insurance for Rohrer park concession stand fire.
- Valley St school zone flashing lights is scheduled to be mounted to the foundations sometime next week.
- We are working with contractors on various punch list items from Eastman, Lynnhaven and Meyer project.
- Inspected various locations of concrete curb, sidewalks and drive aprons due to the County Water Main replacement project.
- Olentangy bridge replacement is scheduled to start 4-10-23
- Approved/Inspected multiple Right of Way permits.
- Kroger is working on a some intersection punch list items in our Right of Way.
- West Springfield project will resume on 4/3/23.

Crews:

- Cleaned up debris blown from the Rohrer concession stand during high winds over the weekend
- Took inventory of losses at Rohrer Park and secured the structure
- Picked up litter from the ROW on Blue Bell
- Maintained fuel in the generator at Eastman and Woodman for another week
- Repaired many signs downed by auto accidents and wind damage
- Continued sweeping on main thoroughfares
- Replaced all the curtains on the sweeper
- Used approximately 2.5 skids of Perma Patch on main thoroughfares for pothole patching
- Began prepping mowing equipment for 2023 mowing activities
- Cleaned the parks at the beginning and end of the week
- Assembled new chairs for the conference room at 5200

MEMORANDUM

TO: Honorable Mayor and Councilmembers

FROM: Josh Rauch, City Manager

DATE: April 7, 2023

SUBJECT: Weekend Update

CC: Department Directors, City Clerk, Law Director

City Manager's Office

- As many folks know, Chief Stitzel announced that he has accepted a position with the City of Franklin. Dan has provided many years of effective, capable leadership for our Fire Department, and we will miss him greatly. I'm confident he'll lead Franklin to many successes in the coming years. We'll hold a gathering to celebrate Dan's service prior to his departure.
- This week I met with recruiters regarding a Fire Chief search process. I anticipate receiving and signing a service agreement next week so we can start searching and fill the position as quickly as possible.
- I prepared a job posting for a Human Resources Manager and received feedback from staff. More to come at next week's work session.
- I attended the Ohio City/County Managers Association (OCMA) annual conference in Columbus on Thursday, April 6th. There was a particularly engaging session on onboarding employees in Public Works/Public Service that I think we can apply here (and adapt for multiple departments).
- This week and weekend are an important holiday for many religious traditions – happy holiday weekend to anyone and everyone celebrating!

Administration

- **Aggregation Process Update-** Second readings of the Ordinances to adopt the SOPEC Plans of Operation and Governance for Electric and Natural Gas will be on the April 20th Council agenda.
- **Phone Disruptions-** We've experienced intermittent service outages at various times and across various phones across the City's network over the last week. Disruptions have ranged from garbled call quality to outages lasting a few minutes at a time. We've created a tracking sheet for staff to record outages to help diagnose issues. TechAdvisors and the City's phone provider also continue to investigate.

Community Development Department

- Nia attended the national American Planning Association (APA) conference in Louisville this week and presented at a panel discussion. Kudos to Nia for her participation and for representing us so well!
- We've opened 253 new code cases so far this year, of which 34 were generated this week. This week truck parking enforcement was a particular focus.

- We've sent a draft of the revised property maintenance code to legal for review. Staff will provide an overview of the proposed code changes at next week's work session.

Finance Department

- Tom is out at least through April 21st, but likely through the whole month of April. He is well and in good spirits, and we've been in contact with him as needed to help answer questions.
- Kim continues to work on bank reconciliations and other Finance housekeeping items. This week, she also stepped in to lead continued SSI and ClearGov deployment.

Fire Department

- Chief Stitzel is on leave this week, but will return next week.
- Staff and CM will meet to discuss Interim Chief arrangements and tactical decision-making next week.
- Passage of the supplemental and resolution for medic purchase will allow us to place this order next week, with expected medic delivery sometime in 2025.

Police Department

- This week was Dispatcher Appreciation week. We sent them our appreciation via edible arrangements.
- Officers continue with more mandated training this week as new classes are sent out from the state.
- Meetings have resumed in regard to Huber Heights Dispatch and our CAD and RMS systems.
- Funeral Services for Springfield Township officer killed in the line of duty was held on Thursday the 6th. We attended the funeral and caravanned in the procession.
- The following represent the partial activity for Riverside Police Department for the month of March 2023.
 - Officers generated 293 reports
 - Made 147 traffic stops, issued 76 citations, and gave 133 traffic warnings
 - Self-Initiated 293 calls
 - Arrest 37 misdemeanor and 6 Felony
 - 38 Property Damage crashes
 - 8 Injury crashes

Public Service Department

Engineering/Administration:

- Getting consultant underway to begin right of way acquisition on Spinning Road Phase 2
- Hit and run accident at Woodman/Burkhardt intersection took out pedestrian signal. Working with ODOT and Security to get repaired.
- Attended FHWA webinar on Transportation Utility Fees/Roadway Maintenance Fees

Projects:

- New power service has been installed at Woodman & Eastman Intersection.

- Montgomery County water main replacement project is repairing street cuts on residential streets in the Bayside area.
- Olentangy Bridge replacement is still scheduled to start 4-10-23.
- We are working with Police & Security Fence to install the flock camera systems throughout the City.
- School zone flashers on Valley St has been rescheduled for installation next week, due to weather.
- Contractors will be removing Woodman & 35 bridge deck north bound, Traffic is confined to south bound lanes-one lane in each direction.
- Construction has resumed on the Springfield St West project. Crews are working on removing curb on the south side of street.
- Approved /Inspected multiple right of way permits.

Crews:

- Started mowing. Crews started in the parks and will continue on to the corridors and elsewhere next week
- Finished repairs to the street sweeper and swept overnight Thursday and into Friday around the wall and the major intersections
***First sweeping pass on main thoroughfares is almost complete, sweeping in plats to start soon-will get schedule to post on Facebook
- Installed new NO PARKING signs at Olentangy and Barrett so that school buses can make the turn during the bridge construction road closure
- Made several repairs to signs damaged by traffic and another round of high winds
- Made repairs to the split rail fence at the cemetery at Eintracht
- Port-A-Johns were delivered to the parks on Monday and on Tuesday crews installed the lockdown cables to prevent theft and overturning
- Crews cleaned out the flow path in an easement that was causing flooding to residents' yards in Richland Plat
- Used Perma Patch to repair pot hole complaints again this week, as the asphalt box has not been repaired and returned to us
- Provided emergency services on Saturday to clean up tree damage across the road and on utility lines on Pleasant Valley
- Picked up furniture from the roadway in multiple locations
- Weed whipped the Spinning Hills wave, will spray later when conditions are better
- Replaced the double catch basin on Duquesne at Rutgers
- Cleaned the parks at the beginning and end of the week

MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Josh Rauch, City Manager
DATE: April 14, 2023
SUBJECT: Weekend Update
CC: Department Directors, City Clerk, Law Director

City Manager's Office

- I received a proposal from Management Advisory Group for our Fire Chief recruitment, and will pursue that next week. The overall process is likely to take 3-4 months... I hope to have a replacement named by September.
- I intend to name Battalion Chief Brian Taylor as Interim Fire Chief while we conduct a formal search. I met with BC Taylor and Chief Stitzel this morning to begin planning the details of that transition. More to come in over the next several weeks.
- I contacted TechAdvisors regarding the ongoing difficulties we've had with the A/V system. In further testing today, we again could not get the control panel to turn on...and swapping Ethernet power ports did not resolve the problem. I've asked Chris to continue working with TechAdvisors on this next week.
- I attended the monthly Wright-Patt Regional COG meeting this week. The meeting was productive – we are discussing potential membership arrangements for nearby counties (Montgomery, Greene, Clark).
- A reminder that next Monday-Wednesday I will be in Washington, DC for the regional fly-in. We have a meeting planned with Senator Vance's team to educate them on the importance of the Woodman/Springfield intersection and our SS4A grant. I'm looking forward to building deeper regional ties and relationships with our congressional liaisons on this trip. Chris will serve as the primary point of contact during my absence.

Administration

- **Phone Disruptions-** TechAdvisors made additional network changes this week in an attempt to resolve our ongoing phone issues. We suspect our aging network switches may also be at fault and have asked TechAdvisors for a quote to replace these switches.

Community Development Department

- Staff spent considerable time this week navigating thorny nuisance cases including Oddbody's and a demolition at 2413 Valley.
- The City will be highlighted in an upcoming edition of the Dayton Business Journal. More information to come.
- We received confirmation that MKSK has produced an updated version of the land use plan with changes incorporated from the first round of comments. Planning Commission intends to

consider the plan in May and will potentially make a recommendation to Council at their May meeting.

Finance Department

- Staff continue to work through financial housekeeping matters.
- Our account with ClearGov has been activated.
- Kim will be providing staff with additional SSI/VIP training next week.
- Work on the mid-year supplemental request has begun, which will include proposed adjustments to accommodate the results of the class/comp study.

Fire Department

- Began transitioning responsibilities to battalion chiefs and interim chief.
- Crews working on EMS protocol testing.
- Pavement patching began at station 5.

Police Department

- The Flock project is progressing with a scheduled install of 10 cameras next week.
- Physical assessment Sunday for two entry level applicants. We have a total of three applicants (one lateral).
- Redhawk MDT issues this week were addressed by Officer Schmidt
- Submitted our grant for the 2023/2024 DUP SRO grant funding.
- NIBIN CPT training for all officers
- Order an MPH laser gun for speed and measuring.
- New server up and running, Monday is the target date.
- VPN issues scheduled for next week.
- Participating in a RT4 traffic blitz today – in an effort to reduce fatal crashes
- Det Sullivan going to First Responder Critical Incident Peer Support Training – part of the wellness program we are working on
- New hires halfway thru Phase 2
- Officers initiated 4 vehicle/parking actions between 3/25 and 4/7 (illegal parking/inoperable vehicle violations)

Public Service Department

Engineering/Administration:

- Getting quotes to repair the salt dome and to add a smaller covered structure at 1791 for catch basin debris.
- Attended our presentation with ODOT Highway Safety Improvement Program for Eastman/Woodman intersection
- Attended project meeting with Woolpert on Grange Hall interchange study
- Answered residents questions and complaints
- Met with Montgomery County Board of Health on a proposed sewer for 1791.
- Working with CMT to get upcoming projects scoped

Projects:

- School zone flashers are being installed on Valley St.
- Olentangy Bridge removal and replacement has started.
- Locations of the Flock cameras around the City has been decided and approved.
- Kroger project is finishing up their punch list items.
- Contractors will be returning to the Lynnhaven /Meyer area to work punch list items.
- Approved / Inspected multiple right of way permits.
- We are working with the Woodman/35 project to resolve some drainage issues related to our storm sewers.
- Montgomery county waterline replacement is continuing in the Bayside area.
- Springfield St West project is removing curbs and relocating the fire hydrants.

Crews:

- Mowed the right of way for first time.
- Made repairs to pesticide spraying equipment
- Sprayed the right of way as part of preventive maintenance for mowing
- Cleaned several catch basins
- Replaced a double catch basin on Viewland
- Used Perma Patch for citizen complaints on pot holes
- Repaired multiple signs
- Cleaned parks at beginning and end of the week