

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2021-O-2512

AMENDING CERTAIN SECTIONS OF PART ONE, ADMINISTRATIVE CODE, OF THE CITY CODE OF HUBER HEIGHTS.

WHEREAS, the citizens of Huber Heights require City codified ordinances that are current, up to date, and reflect the current practices and processes of the City; and

WHEREAS, as part of the Ordinance Review Commission process, the Ordinance Review Commission has identified provisions within the Administrative Code that require updating or other changes; and

WHEREAS, the City Council has determined that revisions in Chapters 101, 103, 107, 109, 125, 131, 141, 149, 155, 163, 166, 171, 175, and 179 are necessary to enhance the effective and efficient delivery of municipal services.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. Part One, Administrative Code, Chapter 101– City Code, Section 101.02 – General Definitions is hereby amended to read as follows:

101.02 – General definitions.

As used in the City Code, unless another definition is provided or the context otherwise requires:

And may be read "or", and *or* may be read "and", if the sense requires it. (ORC 1.02(F))

Another when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02(B))

Bond includes an undertaking and *undertaking* includes a bond. (ORC 1.02(D), (E))

Council means the legislative authority of the Municipality. (ORC 701.01(F))

County means Montgomery County or Miami County and means the county where that part of the City is situated.

Day or *days* means calendar day or days unless specified otherwise.

Designee means a City official authorized to undertake certain acts.

Internet means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web. (ORC 1.59(K))

Keeper or *proprietor* includes all persons, whether acting by themselves or as a servant, agent or employee.

Land or *real estate* includes rights and easements of an incorporeal nature. (ORC 701.01(E))

Municipality or *City* means the City of Huber Heights, Ohio.

Oath includes affirmation and *swear* includes affirm. (ORC 1.59(B))

Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

Person includes an individual, corporation, limited liability company, business trust, estate, trust, partnership and association. (ORC 1.59(C))

Premises, as applied to property, includes land and buildings.

Property means real and personal property. (ORC 1.59(E))

(1) *Personal property* includes all property except real.

(2) *Real property* includes lands, tenements and hereditaments.

Public authority includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.

Registered mail includes certified mail and *certified mail* includes registered mail. (ORC 1.02(G))

Rule includes regulation. (ORC 1.59(F))

Sidewalk shall have the same definition as contained in Section 301.37 of the Huber Heights Codified Ordinances.

This State or the State means the State of Ohio. (ORC 1.59(G))

Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.

Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

Whoever includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private. (ORC 1.02(A))

Written or in writing includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures. (ORC 1.59(J))

Section 2. Part One, Administrative Code, Chapter 103 – Official Standards is hereby amended to add Section 103.05 – Official Flag Adopted to read as follows:

103.01 – Official flag adopted.

The rendering, as depicted herein, shall be the official flag for the City of Huber Heights.



Section 3. Part One, Administrative Code, Chapter 107 – Primary Election Procedures, Section 107.01 – Dates For Holding Nonpartisan Primary Elections is hereby amended to read as follows:

107.01 – Dates for holding nonpartisan primary elections.

Nonpartisan primary elections shall be held for the nomination of candidates for the offices of Mayor and Councilmember on the same date established for conducting primary elections by the County Board of Elections and in the same calendar year in which election of appropriate City officers occurs.

Section 4. Part One, Administrative Code, Chapter 109 – State Of Emergency is hereby amended to read as follows:

109.01 – Occasions originating state of emergency.

A state of emergency shall be limited to those occasions when any of the following occurs:

- (a) When there is a tumult, riot, mob or body of people acting together with intent to commit a felony or to do or offer violence to person or property or by force and violence to break or resist the law or in the event of a disaster affecting life and property and which substantially impairs the functioning of the City government and its ability to protect the lives and property of the people.
- (b) A natural or other disaster occurs which substantially damages persons or property and which substantially impairs the functioning of the City government in the exercise of its police powers.

(Ord. 81-O-42, Passed 11-9-81)

109.02 – Municipal officers authorized to declare state of emergency.

A state of emergency may be declared by any of the following municipal officers when applicable under Section 109.01, and when all of the municipal officers above such officer on the following list are unable to act:

- (a) The Mayor.
- (b) The City Manager or authorized Acting City Manager.
- (c) The Fire Chief.
- (d) The Chief of Police.

(Ord. 2011-O-1886, Passed 5-23-11)

109.03 – Exercise of powers when emergency declared.

Once a municipal officer declares a state of emergency within an area, he may:

- (a) Establish a curfew.
- (b) Prohibit the sale of intoxicating beverages and firearms.
- (c) Restrict the assemblage of three or more persons.
- (d) Restrict the movement of persons or property into or out of the area.

(Ord. 81-O-42, Passed 11-9-81)

109.04 – Penalty for violating emergency orders.

No person shall violate any emergency order established by a municipal officer under Section 109.03. Whoever violates any such order shall be guilty of violating an emergency order and such violations shall have the same penalty as a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(Ord. 81-O-42, Passed 11-9-81)

109.05 – Council affirmation of state of emergency and orders.

Any municipal officer who establishes a state of emergency shall immediately notify the presiding officer of Council. Such officer shall call an emergency meeting of Council within 24 hours. The state of emergency shall be affirmed by a three-fourths vote of all the members of Council or the state of emergency is void. Emergency orders issued under Section 109.03 and/or 109.07 shall also be affirmed by a three-fourths vote of all the members of Council at such meeting.

(Ord. 81-O-42, Passed 11-9-81)

109.06 – Dissolution or voidance of state of emergency.

A state of emergency may be dissolved by the municipal officer who established such state of emergency, or by a simple majority of Council. A state of emergency shall be void unless affirmed by Council as set forth in Section 109.05 within 72 hours of the establishment of such state of emergency.

(Ord. 81-O-42, Passed 11-9-81)

109.07 – Control of public utilities.

The person authorized to declare an emergency as set forth in Section 109.02 may issue emergency orders during a state of emergency established under Sections 109.01 and 109.02 for the regulation and control of all public utilities during such state of emergency. Such emergency orders shall be confirmed as required under Section 109.05 and shall dissolve if not so confirmed as set forth in Section 109.06.

(Ord. 82-O-65, Passed 5-3-82)

Section 5. Part One, Administrative Code, Chapter 107 – Primary Election Procedures, Section 107.01 – Dates For Holding Nonpartisan Primary Elections is hereby amended to read as follows:

CHAPTER 125 – CLERK OF COUNCIL/ DEPUTY CLERK OF COUNCIL

125.01 – Functions and duties of clerk of council.

The duties of the Clerk of Council shall be performed by a person hired as Clerk of Council. The duties and requirements of the position shall be as set out in a job description approved by the Mayor and the City Council. The Clerk of Council shall be

under the day-to-day supervision of the Mayor. The Mayor and the City Council shall jointly evaluate the performance of the person filling this position annually as it deems appropriate. The person filling this position shall be hired, and serve at the will of Council.

The Clerk of Council position shall be a full-time salaried exempt position and shall be performed in compliance with the administration's Personnel Manual except for the provisions of such manual in contradiction to the duties required of the Clerk of Council in fulfilling the position described in this chapter. The Mayor shall approve and authorize all administrative approvals and authorizations required in the normal course of performance of this position. As a salaried position, the employee in this position will not be entitled to overtime pay or compensatory time off.

(Ord. 2011-O-1875, Passed 4-11-11)

125.02 – Deputy clerk of council.

The duties of the Deputy Clerk of Council shall be performed by a person hired as Deputy Clerk of Council. The duties and requirements of the position shall be as set out in a job description approved by the Mayor and the City Council. The Deputy Clerk of Council shall be under the day-to-day supervision of the Clerk of Council. The Clerk of Council shall evaluate the performance of the person filling this position annually as deemed appropriate. The person filling this position shall be hired, and serve at the will of Council.

The Deputy Clerk of Council position shall be a full-time non-exempt position and shall be performed in compliance with the administration's Personnel Manual except for the provisions of such manual in contradiction to the duties required of the Deputy Clerk of Council in fulfilling the position described in this chapter. The Clerk of Council shall approve and authorize all administrative approvals and authorizations required in the normal course of performance of this position. As an hourly position, the employee in this position will be entitled to overtime pay or compensatory time off.

(Ord. 2011-O-1875, Passed 4-11-11)

Section 6. Part One, Administrative Code, Chapter 131 – City Manager, Section 131.03 – Ownership Of City Developed Computer Programming is hereby amended to read as follows:

131.03 – Ownership of city developed intellectual property.

- (a) All City employees are hereby notified that any intellectual property including but not limited to computer programming (software) developed exclusively by City employees, during the employee's standard work hours, through the utilization of City-owned equipment and facilities, and paid for by the City shall be the property of this City.
- (b) The City Manager is hereby directed to take all appropriate and necessary actions and measures to protect the City's interests in any such intellectual property.
- (c) The violation of any provision of this section shall be prosecuted by the City in accordance with applicable statutes or ordinances.

(Res. 85-R-321, Passed 2-4-85)

Section 7. Part One, Administrative Code, Chapter 141 – Employment Provisions, Section 141.01 – Bonds For Officers And Employees is hereby amended to read as follows:

141.01 – Bonds for officers and employees.

All municipal officers and employees shall be bonded under the City’s umbrella liability insurance policy.

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Section 8. Part One, Administrative Code, Chapter 141 – Employment Provisions, Section 141.07 – Deferred Compensation is hereby amended to read as follows:

141.07 – Ohio Public Employees Deferred Compensation Board; plan adoption.

(a) Pursuant to Ohio R.C. 148, the Ohio Public Employee Deferred Compensation Board has adopted a Deferred Compensation Program pursuant to which the City of Huber Heights shall contract with any "eligible employee" who desires to participate in the Plan. The Plan is promulgated by and as amended from time to time by the Ohio Public Employees Deferred Compensation Board.

(b) The Ohio Public Employees Deferred Compensation Board is authorized to administer the Plan under the Program, and to do all things necessary or proper for the administration of the Plan, consistent with the enabling statutes and all the rules and regulations promulgated by the Board.

(c) Consistent with Ohio R.C. 148 and the rules and regulations promulgated by the Board, the proper officials, officers, employees and agents of the City of Huber Heights are authorized to provide the Board with any information they may properly require for the administration of the Plan under the Program.

Section 9. Part One, Administrative Code, Chapter 149 – Board Of Parks And Recreation, Section 149.01 – Terms Of Office And Membership is hereby amended to read as follows:

149.01 – Terms of office and membership.

Members of the Board of Parks and Recreation shall consist of five or more members appointed by Council for staggered three-year terms commencing April 1, 1989.

(Ord. 2011-O-1898, Passed 8-8-11)

Section 10. Part One, Administrative Code, Chapter 155 – Public Records Commission, Section 155.03 – Rules, Powers And Duties is hereby amended to read as follows:

155.03 – Rules, powers and duties.

The functions of the Public Records Commission shall be to provide rules for retention and disposal of City records and to review applications for one-time records disposal and schedules of records retention and disposition submitted by City departments, divisions and/or offices and such other functions as may be provided by law. Records may be disposed of by the Commission pursuant to the procedures outlined in Ohio R.C. 149.39 or as otherwise provide by law.

(Ord. 2011-O-1876, Passed 4-11-11)

Section 11. Part One, Administrative Code, Chapter 163 – Arts and Beautification Commission, Section 163.01 – Creation, Members And Terms is hereby amended to read as follows:

163.01 – Creation, members and terms.

There is hereby established in and for the City a Commission to be known as the Huber Heights Arts and Beautification Commission, which shall consist of nine members appointed by Council. Such members shall be appointed for staggered three-year terms.

(Ord. 2011-O-1893, Passed 6-13-11)

Section 12. Part One, Administrative Code, Chapter 166 – Board Of Adjudication; Board Of Tax Appeals is hereby amended to read as follows:

CHAPTER 166 – TAX REVIEW BOARD

166.01 – Creation, members and terms.

(A) Pursuant to Ohio R.C. 718.11 – Local Board Of Tax Review, there is hereby established in and for the City of Huber Heights a Board known as the Tax Review Board which shall consist of three members. Two members shall be appointed by the Huber Heights City Council, but such appointees may not be employees, elected officials, or contractors with the municipal corporation at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the City Manager, but this member may be an employee of the municipal corporation but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(B) The term for members of the Tax Review Board appointed by the Huber Heights City Council shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the Huber Heights City Council. The member appointed by the City Manager shall serve at the discretion of the City Manager.

166.02 – Meetings and procedural rules; Powers and duties.

(A) Whenever the Tax Administrator issues an assessment regarding an underpayment of municipal income tax or denies a refund claim, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment or denial, the manner in which the taxpayer may appeal the assessment or denial, and the address to which the appeal should be directed.

(B) Any person who has been issued an assessment may appeal the assessment to the Tax Review Board by filing a request with the Tax Review Board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty (60) days after the taxpayer receives the assessment.

(C) The Tax Review Board shall schedule a hearing to be held within sixty (60) days after receiving an appeal of an assessment unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Tax Review Board and may be represented by an attorney at law, certified public accountant, or other representative. The Tax Review Board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days (120) after the first day of the hearing unless the parties agree otherwise.

(D) The Tax Review Board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Tax Review Board shall issue a final determination on the appeal within ninety (90) days after the Tax Review Board's final hearing on the appeal and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in Ohio R.C. [5717.011](#).

(E) The Tax Review Board shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio R.C. [149.43](#). Hearings requested by a taxpayer before the Tax Review Board are not meetings of a public body subject to Ohio R.C. [121.22](#).

Section 13. Part One, Administrative Code, Chapter 171 – Bidding And Purchasing, Section 171.03 – Formal Competitive Procurement Procedure is hereby amended to read as follows:

171.03 – Formal competitive procurement procedure.

- (a) Whenever it is determined that formal competitive procurement is necessary because of the dollar amount involved, the Purchasing Agent shall prepare or cause to be prepared specifications for the goods or services required and an estimated cost figure. The Purchasing Agent shall determine the method of obtaining competitive responses which best serves the City, including but not limited to, sealed competitive bids, competitive proposals or two-step competitive proposals.
 - (1) If the contract cost is estimated to be at least \$25,000.00 but less than \$75,000.00, Council shall then, by ordinance or resolution, authorize and direct the Purchasing Agent to advertise and receive responses, and to determine the lowest and best response. If the lowest and best response is within the set cost ceiling established in Council legislation, the Purchasing Agent is then authorized to secure an approved Purchase Order from the Finance Director and enter into a contract for such articles and services.
 - (2) If the contract price is estimated to be \$75,000.00 or more, Council shall then, by ordinance or resolution, authorize and direct the Purchasing Agent to advertise and receive responses. The Purchasing Agent shall then submit the recommended lowest and best response to Council in an ordinance or resolution for approval. Upon approval by Council, the Purchasing Agent may then secure an approved Purchase Order from the Finance Director and enter into a contract for such articles or services.
- (b) Upon authorization to receive formal competitive responses, the Purchasing Agent shall advertise the requirements of the City on the City of Huber Heights' official website. Such advertisement shall be published sufficiently in advance of the deadline for submission of proposals to allow offerors an adequate opportunity to submit a proposal given the nature and size of the project. In no case shall the advertisement be made less than seven (7) days in advance of the deadline for submission of proposals. The City may also distribute and publish the advertisement in newspapers, professional and trade publications, social media, and any other appropriate publications. The City may also contact potential offerors directly.
- (c) When required by the Purchasing Agent, responses must be accompanied by a bid bond, the amount of which shall be determined by the Purchasing Agent.
- (d) The provisions of Ohio R.C. 153.12 shall not be applicable to public contracts bid pursuant to Chapter 171.

(Res. 97-R-2060, Passed 8-25-97; Ord. 2011-O-1869, Passed 3-14-11)

Section 14. Part One, Administrative Code, Chapter 171 – Bidding And Purchasing, Section 171.09 – Cooperative Purchases is hereby amended to read as follows:

171.09 – Cooperative purchases.

Formal bidding is not required for any purchases through the Ohio Cooperative Purchasing Act, the Southwest Ohio Purchasers for Government Program, the Ohio Department of Transportation (ODOT) Cooperative Purchasing Program, the Miami Valley Fire/EMS Alliance Program, or any other cooperative purchasing programs offered or sponsored by any other political subdivision, regional council of government, public agency, the State, or the federal government, or as a third-party beneficiary under a state or federal procurement contract. The Purchasing Agent is authorized to modify the procedures set out in this chapter, except as to authorization to purchase, as reasonably necessary to participate in these cooperative purchasing programs and to enter into such agreements as are necessary to participate in these programs.

(Ord. 2011-O-1869, Passed 3-14-11)

Section 15. Part One, Administrative Code, Chapter 175 – Special Assessment Policy, Section 175.06(a) – Alternate Assessment Procedures - Eligibility is hereby amended to read as follows:

175.06 – Alternate assessment procedures.

- (a) *Eligibility.*

- (1) If the City imposed a special district utility connection charge on a property, the property is eligible for alternate assessment.
- (2) If the property owner signed an installment loan agreement with the City to finance utility improvements, the property is eligible for alternate assessment and the property owner may apply for such for the remaining term, or a lesser period of time.
- (3) If the property (i) is not connected to City water or is not connected to City sanitary sewer; (ii), has never been assessed for the cost of a water or wastewater public improvement; (iii) is not in a special district; (iv) the connection fee is estimated to cost more than \$5,000.00; and (v) the property owner is claiming that the cost would result in a financial hardship based on the grounds set forth in Exhibit A Section (I)(A) of Chapter 175 of the Huber Heights Code, the property may be eligible for alternate assessment.
- (4) If the City imposed a special assessment for water or wastewater improvements on a property and the property owner was granted a waiver or deferment, the property may be eligible for alternate assessment.

Section 16. Part One, Administrative Code, Chapter 179 – Funds is hereby amended to read as follows:

CHAPTER 179 – FUNDS

179.01 – Funds.

- (a) There is established in the City of Huber Heights the following funds:

Fund Number/Fund Name

101 - General Fund
 202 - Motor Vehicle Fund
 203 - Gasoline Tax Fund
 207 - Lighting District Fund
 209 - Police Fund
 210 - Fire Fund
 211 - Drug Enforcement Fund
 212 - Law Enforcement Fund
 214 - State Highway Maintenance Fund
 216 - County Permissive Tax Fund
 217 - City Permissive Tax Fund
 218 - Park and Recreation Fund
 219 - NatureWorks Grant Fund
 222 - Community Development Block Grant Fund
 226 - Local Street Operating Fund
 238 - Byrne Memorial Grant Fund
 240 - Montgomery County TIF MPITIE Fund

 242 - Law Enforcement Assistance Grant Fund
 243 - Miami County TIF Fund
 244 - Miami County TIF (DEC) Fund
 245 - Miami County West TIF Fund
 246 - Montgomery County Central TIF Fund
 247 - Montgomery County South TIF Fund

248 - Miami County North TIF Fund
249 - Lexington Place TIF Fund
251 - FEMA Fund
290 - Coronavirus Relief Fund
291 - American Rescue Plan Act Fund
292 - Shuttered Venue Operators Grant Fund
305 - Special Assessment Bond Retirement Fund
308 - General Obligation Bond Retirement Fund
406 - Capital Improvements Fund
410 - Transformative Economic Development Fund
421 - Issue 2 Fund
427 - ED/GE Capital Improvement Fund
431 - Fire Capital/Equipment Fund
433 - Local Street Capital Improvement Fund
434 - Federal Equity Sharing Program Fund
436 - Assistance to Firefighters Grant Fund
437 - Energy Conservation Grant Fund
454 - Carriage Trails Infrastructure Fund
501 - Water Fund
502 - Water Construction Fund
503 - Water R & I Fund
504 - Water Utility Reserve Fund
505 - Water Bond Service Fund
506 - Water Bond Reserve Fund
551 - Sewer Fund
552 - Sewer Acquisition/Capital Fund
571 - Storm Water Management Fund
723 - Fire Insurance Fund
732 - Unclaimed Money Fund
802 - Cash Surety Fund

- (b) City Council may establish additional funds from time to time. Upon the creation of such new fund, the Director of Finance shall notify the State Auditor of the creation of such fund.

(Ord. 2011-O-1913, Passed 9-26-11; Ord. No. 2019-O-2380, § 1, 6-24-19)

179.02 – 433 – Local Street Capital Improvement Fund.

- (a) There is hereby established a Local Street Capital Improvement Fund within the financial structure of the City.
- (b) The Director of Finance is hereby directed to notify the State Auditor of the creation of this Fund as required by State statute.
- (c) The Local Street Capital Improvement Fund shall be used to pay the costs associated with any local street improvement performed by the City, or the City's contractors, including but not limited to patch and repair jobs, overlay projects, curb and catch basin repair, slurry seal project, crack seal projects, reconstruction, storm sewer repair, berm placement and repair, base and drainage repair and other associated projects.

- (d) "Local streets" shall include all streets and roads in the City with the exception of those streets and roads designated as State or Federal highways.

(Ord. 2011-O-1913, Passed 9-26-11)

179.03 – 212 – Law Enforcement Fund.

- (a) There is hereby created a Law Enforcement Fund, pursuant to Ohio R.C. 2981.13 into which shall be deposited the proceeds from the sale of forfeited property and contraband and/or money seized as contraband during law enforcement activities.
- (b) Moneys deposited in the Law Enforcement Fund shall be disbursed and used for any of the following purposes, and no other purposes:
 - (1) To pay the costs of protracted or complex investigations or prosecutions.
 - (2) To provide reasonable technical training or expertise.
 - (3) To provide matching funds to obtain Federal grants to aid law enforcement activities.
 - (4) To provide funds for such other law enforcement purposes that Council determines to be appropriate.
- (c) Moneys deposited in or credited to the Law Enforcement Fund shall not be used to meet the operating costs of the City that are unrelated to law enforcement.

(Ord. 2011-O-1913, Passed 9-26-11; Ord. No. 2019-O-2380, § 2, 6-24-19)

179.04 – 211 – Drug Enforcement Fund.

- (a) A Drug Enforcement Fund is hereby created pursuant to Ohio R.C. 2925.03. There shall be deposited into this Fund all drug offense fines and bond forfeitures from drug related offenses in which the Police Department was primarily responsible for the arrest and conviction of the offender.
- (b) Money deposited in the Drug Enforcement Fund shall be disbursed and used only to subsidize the City's drug law enforcement efforts.

(Ord. 2011-O-1913, Passed 9-26-11)

179.05 – 723 – Fire Insurance Fund.

- (a) There is hereby created a Fire Insurance Fund which shall be maintained separately from all other City Funds and as a Trust Fund for the purposes hereinafter enumerated. For the purposes specified in Ohio R.C. 3929.86, the Director of Finance shall be the officer to administer this Fire Insurance Fund.
- (b) In the event of any loss by fire within the City occurring after the effective date of this section when the amount of such loss agreed to between the named insured or insureds and the company or companies insuring such loss equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company or companies in accordance with Ohio R.C. 715.26(F) shall transfer from the insurance proceeds to the Director of Finance of this City \$2,000.00 for each \$15,000.00 (and for each fraction of that amount) of a claim. In the event such a fire and such a loss occurs, and if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds and the insurance company or companies have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company or companies shall transfer from the insurance proceeds to the Finance Director the amount specified in the estimate.

Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure.

- (c) Upon receipt of proceeds by the City as authorized by this section and Ohio R.C. 3929.86, the Director of Finance shall place the proceeds in the Fire Insurance Fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the City pursuant to Ohio R.C. 715.261.

When transferring the funds as required by this section an insurance company shall provide the Director of Finance with the name and address of the named insured or insureds, whereupon the Director of Finance or his designee shall contact the named insured or insureds, certify that the proceeds have been received by the City and notify them that the Fund will be paid to the named insured or insureds after the following procedures have been followed:

- (1) The removing, repairing or securing of the building or other structure shall have been completed and the required proof thereof received by the Director of Finance;
 - (2) If the City has incurred any costs for removing, repairing or securing the building or other structure, such costs shall be paid from the funds (or, if already paid by the City, the City shall be reimbursed for such payments) before the remaining money, if any, is transferred to the named insured or insureds.
 - (3) Nothing in this section shall be construed to limit the ability of the City to recover any deficiency under Ohio R.C. 715.261. Further, nothing in this section shall be construed to prohibit the City and the named insured or insureds from entering into an agreement that permits the transfer of funds to named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.
- (d) In accordance with the provisions of Ohio R.C. 3929.86, the Clerk of Council is hereby directed to file a certified copy of this section with the Superintendent of Insurance of the State of Ohio.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Director of Finance shall return the amount of the fund in excess of the estimate to the named insured or insureds, or to such other party as directed by the named insured or insureds, provided that the City has not commenced to remove, repair or secure the building or other structure.

(Ord. 2011-O-1913, Passed 9-26-11; Ord. No. 2020-O-2417, § 1, passed 2-10-20, eff. 3-11-20)

179.06 – 802 – Cash Surety Fund.

- (a) There is hereby created and established the 802 – Cash Surety Fund which shall be maintained separately from all other City funds for the purposes hereinafter enumerated.
- (b) Except as otherwise provided by law, in all cases where a cash surety is deposited with the City for such purposes as guaranteeing performance or compliance with specific City ordinances, or as surety to ensure compliance with specific City ordinances, such monies shall be deposited in the 802 – Cash Surety Fund and shall thereafter be held in such fund until their release is authorized by the City Manager in accordance with subsection (e) hereof.
- (c) Upon receipt of a cash surety, the Director of Finance shall place the surety in the 802 – Cash Surety Fund to be used solely as authorized by City ordinances requiring such performance surety.
- (d) In no event will the City accept a cash surety in excess of \$20,000.00.
- (e) Monies deposited to the 802 – Cash Surety Fund shall be released in accordance with the City ordinance(s) or agreement entered into with the City requiring such performance surety, but in no event will a surety be released in an amount less than the amount of the original deposit net of costs reimbursed to or used by the City to ensure compliance as set forth in subsection (b) hereof.
- (f) For purposes of this section, "cash surety" is defined as United States dollar-denominated surety conveyed by cash, cashier's check or certified check payable to the City of Huber Heights, or electronic funds transfer to a bank account owned by the City of Huber Heights.
- (g) Interest earned on cash balances in the 802 – Cash Surety Fund shall accrue to the benefit of the City's General Fund.

(Ord. 2011-O-1912, Passed 9-26-11)

Section 17. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 18. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the 13th day of December, 2021;
__8__ Yeas; __0__ Nays.

Effective Date: January 13, 2022

AUTHENTICATION:

Clerk of Council

Mayor

Date

Date