

COUNCIL MEETING PACKET

Regular Meeting of the Clarksburg City Council

CITY OF CLARKSBURG

MARCH 6, 2025

6:00 p.m.- Regular Session

Council Chambers



- Mayor Jim Malfregeot
- Vice Mayor Jerry Riffle
- Councilmember Ryan Deems
- Councilmember Martin Howe
- Councilmember Will Hyman
- Councilmember Marc Jackson
- Councilmember Wayne Worth
- * Tiffany Fell, City Manager
- * Annette Wright, City Clerk
- * Richard Marsh, City Attorney

**Clarksburg Municipal Building
222 West Main Street
Clarksburg, WV 26301
304-624-1673**



**City of Clarksburg
Meeting Agenda
March 6, 2025 – Council Meeting – 6:00 pm**

Agenda for the regular meeting of Council in the City of Clarksburg to be held Thursday, March 6, 2025, in the Clarksburg Municipal Building – Council Chambers, 222 W. Main Street, Clarksburg, West Virginia at 6:00 pm.

Order of Business

- 1) Roll Call
- 2) Prayer and Pledge (Councilmember Worth)
- 3) Recognition – WI Boys Basketball Team
- 4) Approval of Minutes:
 - a) Conference Session – February 13, 2025
 - b) Regular Session – February 20, 2025
 - c) Conference Session – February 20, 2025
- 5) Petitions, Communications and Public Hearings
- 6) City Manager's Report
- 7) City Clerk's Information:
 - a) Zoning form in connection with an Application to Operate a WVABCA Licensed Class B Establishment filed by Jam Son, LLC dba Clarksburg Price Cutter, 1724 Adams Avenue - returned to applicant on February 21, 2025
- 8) Unfinished Business:
 - a) Consideration of **Second and Final Reading and Public Hearing** of an **Ordinance Entering into Encroachment Agreement with Central Holdings, L.L.C. Regarding Baltimore Street**

9) New Business:

- a) Consideration of **First Reading** of an **Ordinance** of the City of Clarksburg to Amend Sections 745.06, 745.13, 745.16, 745.17, 745.20 and 745.23 of the Business & Taxation Section of the Codified Ordinances
- b) Consideration of **First Reading** of an **Ordinance** Amending Sections 1730.02 and 1730.07 of the Vacant Building Registration Program
- c) Consideration of **First Reading** of an **Ordinance** Amending Section 1707.09 to Modify Requirements for Resurfacing of Excavation of City Streets
- d) Consideration of a **Resolution** of the City of Clarksburg, West Virginia, Approving Parking Authority of the City of Clarksburg's Contract with Parkeon, Inc. and to Secure Taxable Financing

10) Council Comments

11) Adjournment

FEBRUARY 13, 2025

The Clarksburg City Council met in CONFERENCE (WORK) SESSION on Thursday, February 13, 2025 at 5:30 p.m. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Malfregeot presiding.

PRESENT:

Councilmember Ryan Deems
Councilmember Martin Howe
Councilmember Will Hyman
Councilmember Marc Jackson
Councilmember Wayne Worth
Vice Mayor Jerry Riffle
Mayor Jim Malfregeot

ALSO PRESENT:

Tiffany Fell, City Manager
Richard Marsh, City Attorney
Annette Wright, City Clerk

1) Roll Call

Prior to taking up the agenda, Mayor Malfregeot called for a moment of silence for the loss of John Cooper, former Park Board Superintendent.

2) Discussion regarding the proposed 2025-2026 Budget

Outside Agency donation requests:

The following organizations appeared before Council to discuss their donation requests:

- Chad Bundy, Harrison-Clarksburg Board of Health
- Shannon Beam, Clarksburg-Harrison Library
- Mendi Scott, Homes for Harrison
- Donna DeMarco, Clarksburg-Harrison Housing Authority
- Jim Griffin, WV Black Heritage Festival
- Dr. Brown, Health Access
- Shaun Jedju – cemetery lawn maintenance
- Amy Wilson, Harrison County Economic Development Corporation
- Bill Boyles, WV Italian Heritage Festival
- Pete Taylor, Historical Society
- Mike Spatafore, Clarksburg History Museum
- Kim Drummond, United Way

City Manager Presentation:

City Manager Fell presented a PowerPoint presentation, as well as a handout thereof.

Budget Overview:

General Fund - \$19,367,035 (slight increase over the current year's budget due to anticipated revenues in fire service fees and an increase in B&O taxes. Property taxes estimated at \$2,601,243, proposed COLA of \$1,200 per employee, large increase in PEIA premiums).

Coal Severance Fund - \$91,300

Sales & Use Tax Fund - \$6,520,000

RGPAC - \$1,762,300

Police Fine Escrow Fund - \$336,000

Excess Levy Fund - \$1,687,600

Said presentation also included 2025-2026 goals and a 2025-2026 capital plan.

Questions:

Concluding the presentation, Council went through various individual line items throughout the budget asking questions and/or providing feedback.

Meeting adjourned.

James L. Malfregeot, Mayor

Annette Wright, City Clerk

APPROVED: March 6, 2025

FEBRUARY 20, 2025

The Clarksburg City Council met in REGULAR SESSION on Thursday, February 20, 2025 at 6:00 p.m. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Malfregeot presiding.

PRESENT:

Councilmember Ryan Deems
Councilmember Will Hyman
Councilmember Marc Jackson
Councilmember Wayne Worth
Vice Mayor Jerry Riffle
Mayor Jim Malfregeot

ALSO PRESENT:

Tiffany Fell, City Manager
Richard Marsh, City Attorney
Annette Wright, City Clerk

ABSENT:

Councilmember Martin Howe

- 1) **Roll Call**
- 2) **Prayer & Pledge** – given by Councilmember Jackson
- 3) **Motion** by Councilmember Worth, **Seconded** by Councilmember Hyman for approval of the minutes of the regular session of Council held on February 6, 2025. **Motion Approved Unanimously.**
- 4) **Petitions, Communications, and Public Hearings:** None.
- 5) **City Clerk's Information:**
 - a) Zoning forms in connection with Applications to Operate a Private Club, Private Wine Restaurant or Tavern filed by Jass Video Investments LLC, dba High Life Lounge, 198 Buckhannon Pike and Highlife Lounge, Route 19 – returned to applicant on February 6, 2025
- 6) **Unfinished Business:** None.
- 7) **New Business:**

- a) **Consideration of First Reading of an Ordinance Entering into Encroachment Agreement with Central Holdings, L.L.C. Regarding Baltimore Street**

Motion By: Councilmember Hyman
Seconded By: Councilmember Worth

For approval of the above-captioned ordinance on first reading. Under discussion, Councilmember Worth inquired if the above matter should have been reviewed by the Planning & Zoning Commission with City Attorney Marsh stating that the City is granting an easement and not abandoning any of the property; therefore, the matter did not need to go before P&Z. **Motion Approved Unanimously.**

- b) **Consideration of the approval of asbestos abatement and demolition of a structure located at 239 E. Main Street**

Motion By: Councilmember Worth
Seconded By: Councilmember Hyman

To award the contract for the asbestos abatement and demolition of 239 E. Main Street to Empire Builders, Inc. in the amount of \$24,000. **Motion Approved Unanimously.**

- c) **Consideration of the approval of asbestos abatement and demolition of a structure located at 116 School Street**

Motion By: Councilmember Worth
Seconded By: Councilmember Jackson

To award the contract for the asbestos abatement and demolition of 116 School Street to Empire Builders, Inc. in the amount of \$12,000. **Motion Approved Unanimously.**

- d) **Consideration of a letter of support requested by The Change Initiative for The Phoenix Recovery House**

Motion By: Councilmember Deems
Seconded By: Councilmember Hyman

For approval of a letter of support requested by The Change Initiative for The Phoenix Recovery House. **Motion Approved Unanimously.**

- 8) Council dispensed with Council Comments this evening.

There being no further business to come before Council, **Motion** by Councilmember Hyman, **Seconded** by Councilmember Jackson and **Approved Unanimously** for adjournment.

James L. Malfregeot, Mayor

Annette Wright, City Clerk

APPROVED: March 6, 2025

FEBRUARY 20, 2025

The Clarksburg City Council met in CONFERENCE (WORK) SESSION on Thursday, February 20, 2025 immediately following the Regular Session of Council at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Malfregeot presiding.

PRESENT:

Councilmember Ryan Deems
Councilmember Will Hyman
Councilmember Marc Jackson
Councilmember Wayne Worth
Vice Mayor Jerry Riffle
Mayor Jim Malfregeot

ALSO PRESENT:

Tiffany Fell, City Manager
Richard Marsh, City Attorney
Annette Wright, City Clerk

ABSENT:

Councilmember Martin Howe

As roll call was taken at the regular session of Council on this date prior to this conference session, Council commenced with the following:

Discussion regarding the proposed budget FY 2025-2026

City Manager Fell provided an update budget document which reflected the changes suggested by Council. Discussion was held concerning the 1% Sales & Use Tax Fund and the items to be moved thereto from the General Fund. City Manager Fell provided three options (A, B and C) to Council with Option B being predominantly infrastructure and Option C being both infrastructure and economic development. With Council in agreement to move forward with Option B, City Manager Fell apprised that the same would be reflected in the budget. With regard to grants, Councilmember Worth requested that the competitive and noncompetitive grants be identified, as well as the writers thereof. City Manager Fell informed that all grants are being handled through the grant writer. City Manager Fell opined that the budget should be approved by ordinance; however, the action to be taken regarding the approval of the budget would be reviewed. Concluding review and discussion on the various aspects of the budget, the meeting was concluded.

James L. Malfregeot, Mayor

Annette Wright, City Clerk

APPROVED: March 6, 2025

Zoning Form

(Original copy must be submitted to the WVABCA Licensing Department)

Note: If an establishment's location is not situated within a municipality, this office will need a letter from the County Commission stating that the establishment location is zoned properly. All applicants must complete the front portion of the form.

To: Municipal Clerk or Recorder

Under the requirements set forth in W.Va. Code §60-3A-1 et seq, a person intending to apply for a license to operate a WVABCA licensed Class B establishment at any location within a municipality **must file a notice of such intention with the Clerk or Recorder of such municipality at least ten (10) days prior** to filing an application for such license with the WVABCA. Pursuant to this requirement, notice is herein given that the following intends to apply to the WVABCA for a license to operate a Class B licensed establishment issued pursuant to the provisions of W.Va. Code §60-3A-1 et seq.

Entity Name: Jan Son LLC

DBA (Doing Business As): Clarksburg Price Cutter

Address of Establishment: 1724 Adams Ave Clarksburg WV 26301
(Street/Route) (City) (State) (Zip Code)

Applicant's Name(s): Jamieson Thomas E
(Last) (First) (Middle)

(Last) (First) (Middle)

(Last) (First) (Middle)

(Last) (First) (Middle)

(Last) (First) (Middle)

General Description of Premises: Grocery Store located on Adams Ave.

This Notice has been filed with the Clerk or Recorder of the City/Town of

Clarksburg on this 21st day of February, 2025.

Applicant's Signature(s): Thomas Jamieson Date: 2/21/2025

Date: _____

Date: _____

Date: _____

(FOR USE BY MUNICIPAL AUTHORITIES ONLY)

1. Is the proposed location for the Class B "Carry-Out" described consistent with the zoning ordinances of your Municipality as either a permitted use or a conditional use of such premises?

Yes ☒ No ☐

2. If the answer to the first question was "No" does your Municipality provide within its zoning requirements suitable alternative locations for Class B "Carry-Outs"?

Yes ☐ No ☐

3. Additional comments to the Alcohol Beverage Control Administration:

4. Is the proposed location situated in a "Dry County" or in a Town/Municipality designated as a "Dry" area.

Yes ☐ No ☒ Unsure ☐

James Lee

PROJECT DIRECTOR

Approved By: Authorized Official Signature and Title

CITY OF CLARKSBURG

City/Town

Date:

2/24/2025

Return Original To: WVABCA
Licensing Division
900 Pennsylvania Avenue, 4th Floor
Charleston, WV 25302

AN ORDINANCE ENTERING INTO ENCROACHMENT AGREEMENT WITH CENTRAL HOLDINGS, L.L.C. REGARDING BALTIMORE STREET

WHEREAS, the City of Clarksburg currently owns Baltimore Street, a street located within the Glen Elk District;

WHEREAS, Central Holdings, L.L.C. owns a warehouse situate on real property identified on the tax maps as District 08, Map 17, Parcel No. 60;

WHEREAS, that property is adjacent to the intersection of N. 4th Street and Baltimore Street and immediately abuts Baltimore Street;

WHEREAS, Baltimore Street is 50-foot in width and other sections of the street have been devoted to parking for adjacent properties;

WHEREAS, Central Holdings, L.L.C. desires to modify Baltimore Street to provide install loading docks; dock ramp; pedestrian stairs; handicap access, and similar fixtures for its warehouse;

WHEREAS, the section of Baltimore Street passing Central Holdings, L.L.C.'s property dead-ends soon thereafter and is not regularly utilized by vehicular or pedestrian traffic;

WHEREAS, Central Holdings, L.L.C. needs 30-foot of the 50-foot width of Baltimore Street for its permanent use and 5-foot for its temporary use;

WHEREAS, the City desires to permit Central Holdings, L.L.C. to modify and utilize Baltimore Street for its warehouse, including loading docks, customer, employee, and visitor entrances..

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

1. Council hereby permits Central Holdings, L.L.C. to utilize such portion of Baltimore Street as follows for a permanent encroachment: starting at the northwestern corner of that property held by Central Holdings L.L.C. identified on the tax maps as District 8, Map 17, Parcel 60; thence in a northern direction 30 feet; thence 200 feet southeast, running parallel to said parcel's northern boundary line; thence thirty feet south to the northeastern corner of said parcel; thence northwest back to the beginning.

2. Council hereby permits Central Holdings, L.L.C. to utilize such portion of Baltimore Street as follows for a temporary but ongoing encroachment: five-feet as measured from the boundary of the permanent encroachment and running parallel thereto.

3. The City shall enter into an Encroachment Agreement with Central Holdings, L.L.C. Such Encroachment Agreement shall provide authority for Central Holdings, L.L.C. to build the loading docks and modify Baltimore Street as necessary and shall contain provisions addressing construction safety; protection of adjoining property; duty of repair; post construction safety; and indemnification.

4. Such Encroachment Agreement shall be materially the same as Encroachment Agreement attached hereto as Exhibit A

5. The City Manager is hereby authorized to execute the completed Encroachment Agreement on behalf of the City of Clarksburg.

This Ordinance shall be effective upon passage.

PASSED by Council of the City of Clarksburg on **FIRST READING** on this 20th day of February 2025.

PASSED by Council of the City of Clarksburg on **SECOND AND FINAL READING**, following a public hearing, on this 6th day of March 2025.

MAYOR JAMES MALFREGEOT

ATTEST:

ANNETTE WRIGHT
CITY CLERK

APPROVED AS TO FORM BY:

RICHARD R. MARSH
CITY ATTORNEY

This Encroachment Agreement is dated this ____ day of March, 2025, by and between the City of Clarksburg, West Virginia, a municipal corporation ("City") and Central Holdings L.L.C., a West Virginia corporation ("Central Holdings").

RECITALS:

1. Central Holdings owns a warehouse situate on real property identified on the tax maps as District 08, Map 17, Parcel No. 60 in Clarksburg, Harrison County, West Virginia.
2. Baltimore Street, a municipal street, sits immediately adjacent to the northern boundary of Central Holdings' parcel.
3. Baltimore Street dead-ends soon after passing Central Holdings' parcel and is rarely used other than by Central Holdings.
4. Central Holdings desires to permanently encroach on and modify Baltimore Street to install loading docks; dock ramp; pedestrian stairs; handicap access, and similar fixtures for its warehouse and the City desires to grant the same.
5. Central Holdings further desires to temporarily and from time to time encroach on Baltimore Street for purposes of parking and loading and the City desires to grant the same.

The parties agree:

1. Definitions.
 - a. Property. "Property" means that real property identified as Lot Nos. 29, 30, 31, 32, 33, 34, 35, and 36 in Block B in Glen Elk Addition No. 1 to the City of Clarksburg on that plat of record in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 106, at page 8. Said plat is of record in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 106, page 10.
 - b. Baltimore Street. "Baltimore Street" means that municipal street as laid down on that plat referenced *supra* § 1(a).
2. Acknowledgement of Boundary. The parties acknowledge that there is some question as to the boundary between the Baltimore Street and the Property. For the purposes of this Agreement, the parties presume that the boundary is at the northern wall of the warehouse situate on the Property. To the extent that this is incorrect, the City is not attempting to claim ownership or adverse possession thereof or to otherwise modify such boundary.

3. Encroachment.

a. Permanent Encroachment:

- i. Central Holdings may permanently encroach on Baltimore Street up to thirty feet as measured from the northern boundary line of the Property and as shown on the plat attached hereto as Exhibit A.
- ii. The general calls for such permanent encroachment shall be: starting at the northwestern corner of that property held by Central Holdings L.L.C. identified on the tax maps as District 8, Map 17, Parcel 60; thence in a northern direction 30 feet; thence 200 feet southeast parallel to said parcel's northern boundary line; thence thirty feet south to the northeastern corner of said parcel; thence northwest back to the beginning.
- iii. Such permanent encroachment is for the construction of fixtures for use at Central Holdings' warehouse located at the Property, including but not limited to, loading docks; pedestrian stairs; handicap access; customer, employee, and visitor entrances.

b. Temporary Encroachment.

- i. Central Holdings may temporarily and from time to time encroach on Baltimore Street up to five feet as measured from the boundary of the permanent encroachment and as shown on the plat attached hereto as Exhibit A.
- ii. Central Holdings may use this temporary encroachment from time to time to park vehicles, gain access to the fixtures, and for other reasonable uses.
- iii. The encroachments are temporary but continuing and shall last so long as the permanent encroachment is in place.
- iv. Central Holdings shall not install any fixtures in the temporary encroachment but may install painted lines to indicate parking, turning, or similar traffic ways.

c. Central Holdings shall construct such fixtures in accordance with Exhibit A. As part of such encroachment, Central Holdings may excavate and otherwise modify Baltimore Street to suit its purposes.

4. Obligations.

a. Remainder.

- i. Central Holdings shall not make any permanent modifications to the portion of Baltimore Street not subject to the permanent encroachment. To prevent any confusion, such permanent encroachment is that portion of Baltimore Street beginning at 30 feet as measured from the Property's northern boundary.

- ii. Central Holdings may, as necessary during construction, utilize such portion of Baltimore Street, provided that it does not unreasonably impede traffic flow.
 - b. Construction.
 - i. Central Holdings shall provide, during construction and any subsequent maintenance, appropriate and reasonable signs and other warning devices for the protection of traffic, both vehicular and pedestrian.
 - ii. Central Holdings shall exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air; or damage to adjoining properties.
 - iii. Central Holdings shall repair any damage it causes to the portion of Baltimore Street not subject to the encroachment.
 - c. Post Construction. After construction of its fixtures is complete, Central Holdings shall erect such warning signs and markers, including pavement lines, as the City deems reasonable to warn traffic, both vehicular and pedestrian of the narrowing of Baltimore Street and the presence of the fixtures. Such signs may include narrow road, loading area, or a lowered speed limit.
5. Indemnification. Central Holdings shall be responsible for all loss of life, personal injury or property damage or any other claims or liabilities accruing from or attributable to the construction, maintenance, use, or presence of any encroachments upon Baltimore Street adjacent to the Property, resulting from the negligence or conduct of Central Holdings, and Central Holdings shall indemnify, defend and hold the City, its agents, officers and employees harmless from any and all claims, losses, injury or damage arising therefrom.
6. Binding. This agreement shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of the parties hereto, as well as upon themselves.

CENTRAL HOLDINGS, LLC

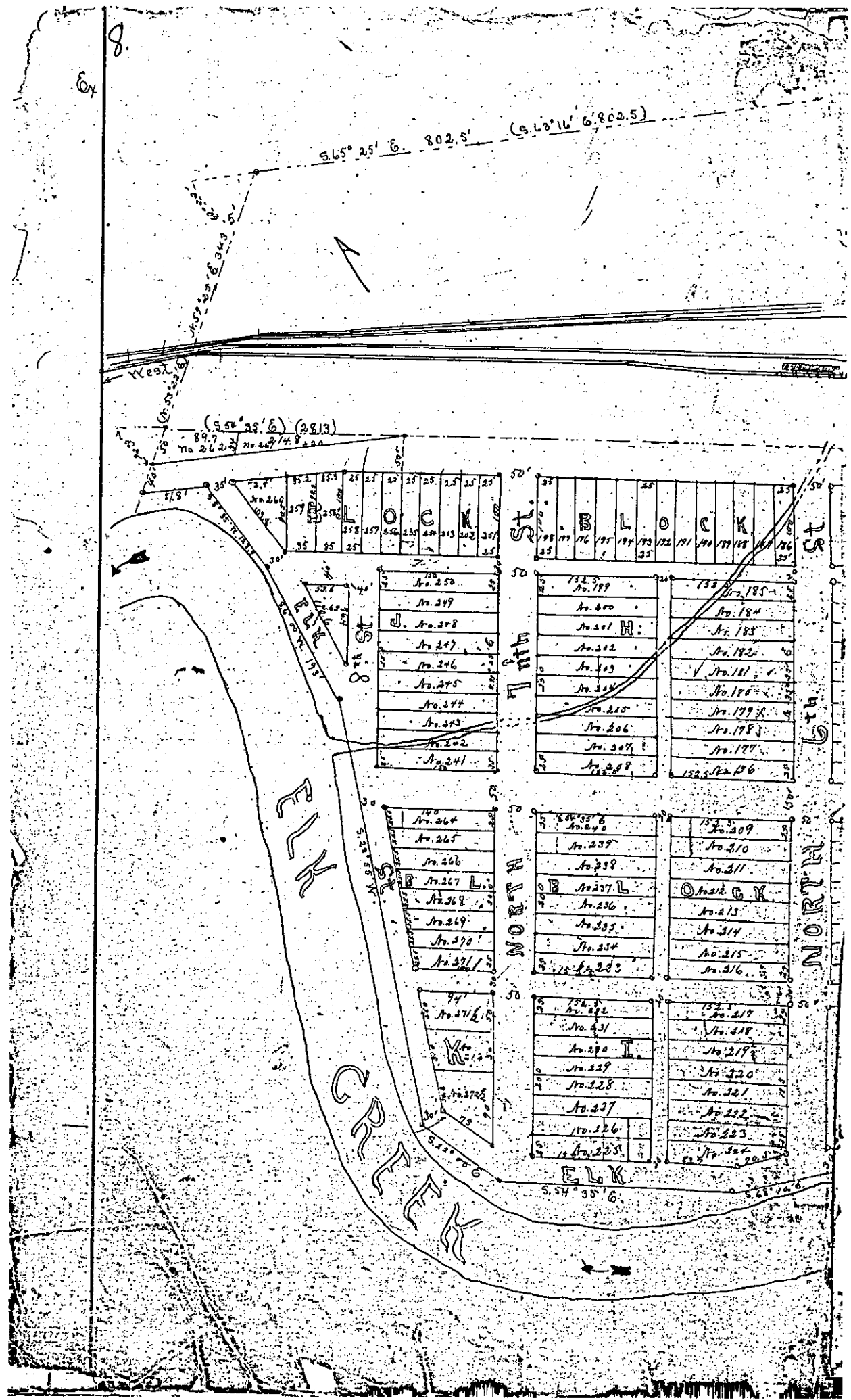
By: Leonard E. Papa, II, its Member

THE CITY OF CLARKSBURG, WEST VIRGINIA,
a municipal corporation,

By: Tiffany Fell, its City Manager



Owner must sign drawings upon review, including Owner proposed changes. No changes will be made to drawings without signature. If Owner signature is not present upon a construction drawing, said drawing shall be deemed acceptable as is by Owner.



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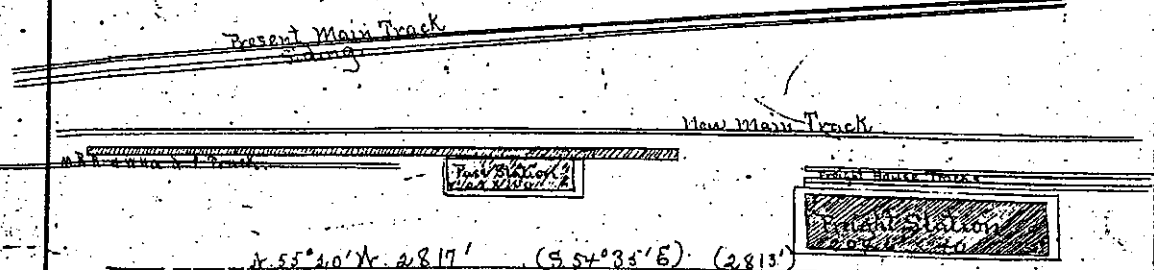
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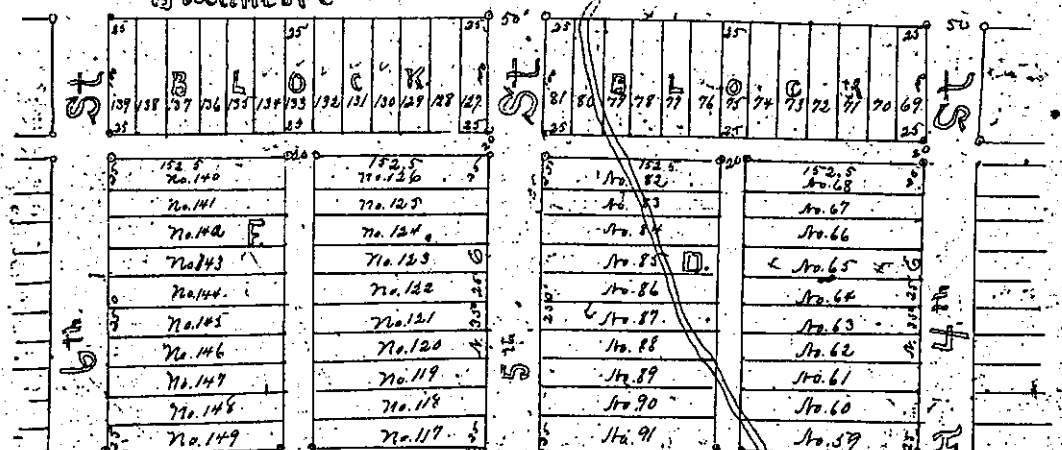
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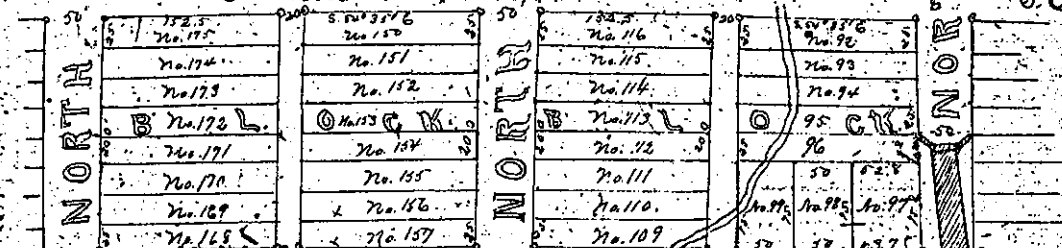
B. & O. R. R. CO.



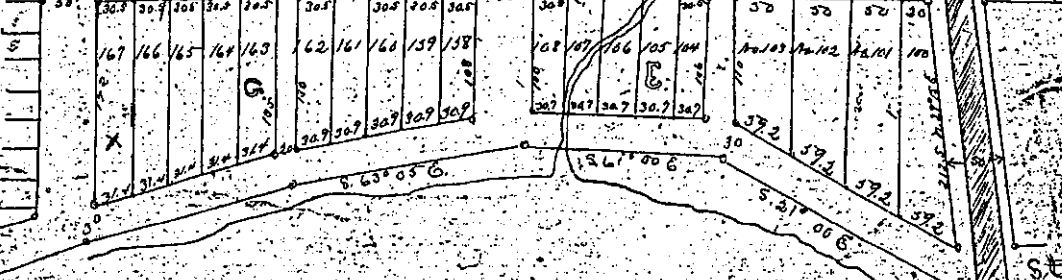
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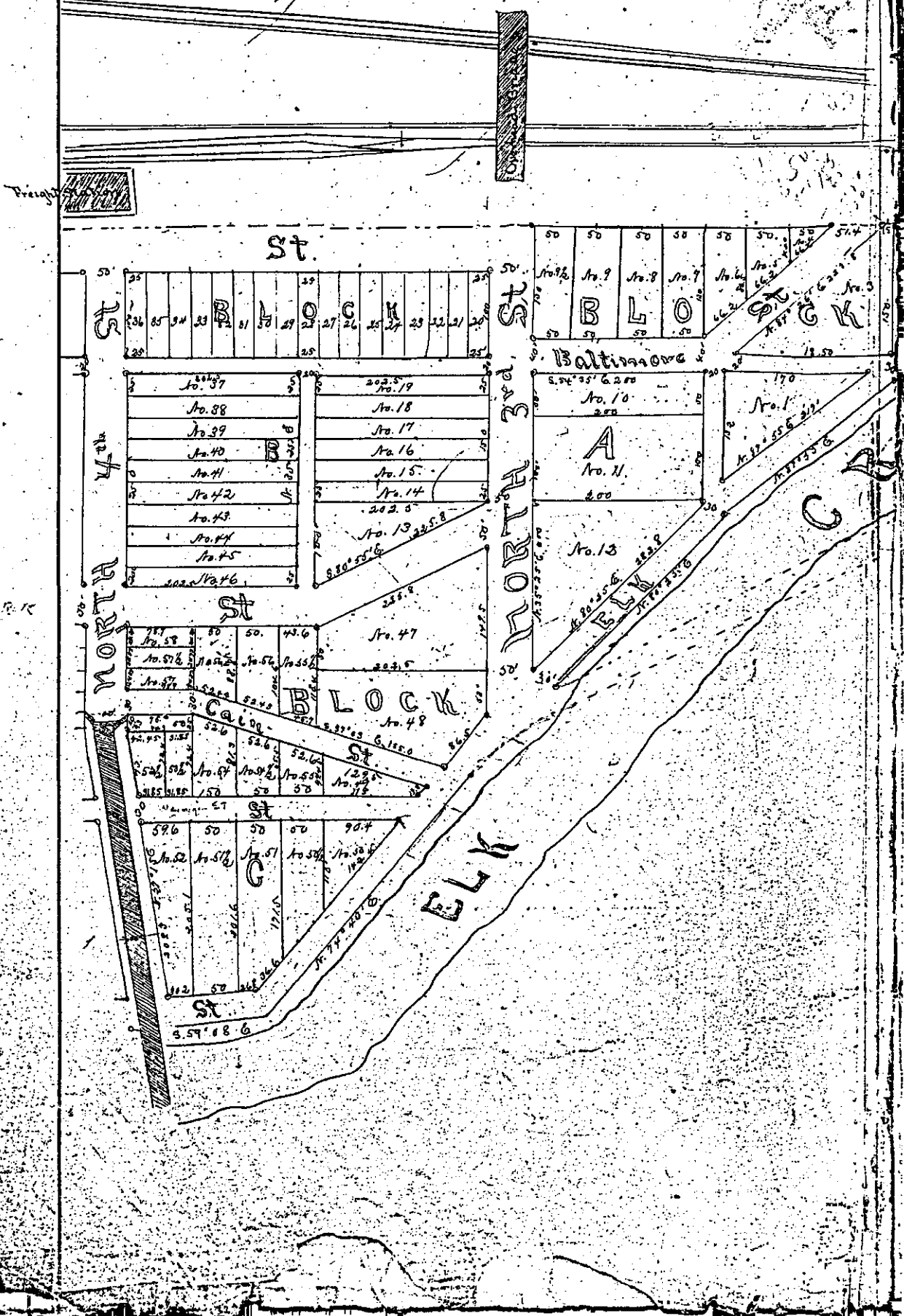
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TO BE PUBLISHED AS A CLASS II LEGAL ADVERTISEMENT (ONCE A WEEK FOR TWO SUCCESSIVE WEEKS) IN THE CLARKSBURG EXPONENT/TELEGRAM:

**PLEASE PUBLISH ON TUESDAY, FEBRUARY 25, 2025
AND ON TUESDAY, MARCH 4, 2025**

PUBLIC HEARING

A PUBLIC HEARING WILL BE HELD PRIOR TO FINAL VOTE ON ADOPTION OF THE FOLLOWING ORDINANCE DURING A REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG, TO BE HELD ON THURSDAY, MARCH 6, 2025 AT 6:00 P.M. AT THE CLARKSBURG MUNICIPAL BUILDING, 222 WEST MAIN STREET, CLARKSBURG, AT WHICH TIME ANY INTERESTED PARTIES MAY APPEAR AT SAID MEETING AND BE HEARD WITH RESPECT TO THIS PROPOSED ORDINANCE. COPIES OF THIS PROPOSED ORDINANCE ARE AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE CITY CLERK AT SAID MUNICIPAL BUILDING DURING REGULAR BUSINESS HOURS.

**AN ORDINANCE ENTERING INTO ENCROACHMENT AGREEMENT WITH
CENTRAL HOLDINGS, L.L.C. REGARDING BALTIMORE STREET**

PASSED BY THE CITY COUNCIL OF THE CITY OF CLARKSBURG ON FIRST READING
ON THE 20th DAY OF FEBRUARY, 2025.

JAMES L. Malfregeot, Mayor

ATTEST: Annette M. Wright, City Clerk

ORDINANCE OF THE CITY OF CLARKSBURG TO
AMEND SECTIONS 745.06; 745.13; 745.16; 745.17; 745.20; AND 745.23 OF THE
BUSINESS & TAXATION SECTION OF THE CODIFIED ORDINANCES

WHEREAS, Article 745 of the Codified Ordinances provides for the assessment of business and occupation taxes and collection thereof;

WHEREAS, the collection of such business and occupation taxes is currently vested in the City's Finance Director;

WHEREAS, Council seeks to vest authority in the City Manager and Chief of Police, in addition to the Finance Director, to seek the collection of past due or unfilled business and occupation taxes; and

WHEREAS, to accomplish this, Council seeks to amend Sections 745.06; 745.13; 745.16; 745.17; 745.20; and 745.23 of the Codified Ordinances.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

THEREFORE, BE IT RESOLVED that Section Sections 745.06; 745.13; 745.16; 745.17; 745.20; and 745.23 of the Codified Ordinances are hereby amended as follows:

745.06 FAILURE TO MAKE RETURN; INCOMPLETE OR ERRONEOUS RETURN.

If any person fails to file any return required by this article at the time required by law or by regulation made under authority of law, or makes and files willfully or otherwise, a false or fraudulent return, the Director of Finance may proceed to make such return from any information available to him whether obtained through testimony or otherwise. The Director of Finance or ~~his~~such Director's delegate, the Chief of Police, and the City Manager or such Manager's delegate, shall have the power to issue subpoenas and subpoenas duces tecum as permitted in West Virginia Code 11-10-5b and therefore may make examinations of the books, records and papers and audit the accounts of any such person, including bank accounts, and may take the evidence, on oath, of any person who ~~he~~the City's agent may believe is in possession of any relevant information. As soon as possible after procuring such information as ~~he~~the City may be able to obtain as to any person making an incomplete or incorrect return, or failing or refusing to make a return, the Director of Finance shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. The assessment of the tax by the Director of Finance shall be final as to any person who refused to make a return.

745.13 LIEN FOR UNPAID TAX; DEFAULT.

Any tax, additions to tax, penalties and interest due and payable under this article plus an amount equal to any costs actually expended by the City to collect any such amounts, including, but not limited to, postage, filing and recordation fees, shall be a debt due the City, and shall be a personal obligation of the taxpayer and shall be a lien on the real and personal obligation of the taxpayer. The lien shall be enforced as provided in West Virginia Code 11-10-12, including by foreclosure.

745.16 COLLECTION BY SUIT.

The Director of Finance or such Director's delegate; the Chief of Police; or the City Manager or such Manager's delegate, ~~may by himself or a duly appointed agent~~, collect taxes due and unpaid under this article, together with all accrued penalties, and for such purpose may exercise all the power authorized for the collection of taxes under the Charter, this Part Seven -

Business and Taxation Code, other ordinances of the City and the laws of the State. In any proceeding under this section should the City be granted judgment or decree the City shall be awarded its costs expended in connection therewith, including, but not limited to, postage costs, and fees paid to the Circuit Court or County Clerk and other incidental expenses.

745.17 SETTLEMENT AGREEMENTS AND COMPROMISES.

The Director of Finance or the City Manager or such Manager's designee is authorized to enter into an agreement in writing with any person relating to the liability of such person in respect of any tax administered by the Director of Finance under this article, for any taxable period. The Director of Finance is authorized to compromise or settle any tax due and owing the City in an amount less than or equal to \$10,000. For taxes in an amount over \$10,000, approval of any settlement or compromise must be obtained from the City Manager.

745.20 COLLECTION BY DISTRAINT.

The Director of Finance or such Director's delegate; the Chief of Police; or the City Manager or such Manager's delegate may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder.

745.23 ADMINISTRATION OF ARTICLE.

The administration of this article is vested in and shall be exercised by the Director of Finance who shall prescribe forms and reasonable rules or procedure in conformity with this article for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder. Without limiting the generality of the foregoing and notwithstanding any provision herein to the contrary, the Director of Finance may execute and deliver binding agreements with other municipalities to carry out the provisions of this article respecting cooperation and tax administration, including without limitation sourcing of gross income for municipal business and occupation tax purposes and may execute and deliver binding agreements with the West Virginia State Tax Commissioner respecting the exchange of taxpayer information. The Director of Finance may request any municipal officer to assist in enforcing the provisions of this as provided in West Virginia Code §11-10-5i. The enforcement of any provision of this article in any court of the State shall be under the exclusive jurisdiction of the Director of Finance or such Director's delegate or the City Manager or such Manager's delegate, who shall require the assistance of and act through the City Attorney.

This Ordinance shall be effective upon passage.

PASSED by Council of the City of Clarksburg on **FIRST READING** on this 6th day of March 2025.

PASSED by Council of the City of Clarksburg on **SECOND AND FINAL READING**, following a public hearing, on this 20th day of March 2025.

MAYOR JAMES MALFREGEOT

ATTEST:

ANNETTE WRIGHT
CITY CLERK

APPROVED AS TO FORM BY:

RICHARD R. MARSH
CITY ATTORNEY

**AN ORDINANCE AMENDING SECTIONS 1730.02 AND 1730.07 OF THE VACANT
BUILDING REGISTRATION PROGRAM**

WHEREAS, vacant buildings pose a danger to health, create increased risks of fire; and lower property values;

WHEREAS, the City of Clarksburg currently has an ordinance requiring the registration of vacant buildings within its municipal limits; and

WHEREAS, the City of Clarksburg desires to provide for automatic registration of such vacant buildings and increase the fees associated with the vacant property registration;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

Sections 1730.02 and 1730.07 of the Codified Ordinances of the City of Clarksburg be and is hereby amended as follows:

1730.02 DEFINITIONS.

A new subsection (a) is hereby created as follows:

(a) Abandoned building: Any structure on a parcel of real property which (i) has been a vacant structure for more than 90 days, and (ii) is the subject of an order issued by the municipal court for a building or zoning violation which has not been remedied for at least 30 days.

Section 1730.02 is further renumbered to provide for the addition of the new subsection (a). Other than renumbering, all other subsections remain the same.

Section 1730.07 REGISTRATION GENERALLY.

Section 1730.07(a) shall remain unchanged.

A new Section 1730.07(b) is hereby created and current Section 1730.07(b) is modified as follows:

(b) Registration by City Manager. When the City Manager has reason to believe that a structure is a vacant structure and that the owner has failed to

register in compliance with this article, the City Manager may post a notice on the subject structure indicating that the City Manager has reason to believe that the building is a vacant structure and directing the owner to either (i) register the structure in accordance with the provisions of this article or (ii) provide the City Manager with evidence demonstrating that building is not a vacant structure as defined by this article. In addition to posting the aforementioned notice on the suspected vacant structure itself, the City Manager shall, via registered mail or via regular mail if registered mail is unsuccessful, send a copy of the same notice to the record owner of the property according the tax or other public records maintained by the assessor or sheriff of Harrison County. If, within 30 days of posting and mailing, the owner has neither registered the property in the vacant property registration created by this article nor demonstrated to the satisfaction of the City Manager that the property is not a vacant structure, then the City Manager shall add the structure to the vacant property registry using the information of record in the office of the assessor or sheriff of Harrison County. For this section, the City Manager may at any time designate one or more City officials to undertake these acts, including, but not limited to, City Engineer, City Attorney, Chief of Police, or Community Planning and Admin. Project Manager, or such officials may act in the City Manager's stead.

- (c) Registration Statement and Fees; Local Agent. If none of the persons listed, as above, is shown at an address within the State, the registration statement also shall provide the name and address of a person who resides within the State and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health , safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering, but each structure constitutes a separate fee. The owner of the vacant property as of the last day of the month when the property has been registered of each calendar year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the City; and based on the duration of the vacancy as determined by the following scale:

- (1) A \$250.00 fee, plus any costs for service of process, for a vacant structure that is placed on the vacant property registry;
- (2) A \$500.00 fee, plus any costs for service of process, for a vacant structure that is an abandoned building and is placed on the vacant property registry;
- (3) A \$750.00 fee, plus any costs for service of process, for a vacant structure that is open and is placed on the vacant property registry;
- (4) A \$1,000.00 fee, plus any costs for service of process, for a vacant structure or abandoned building that is open and has been on the vacant property registry for more than six consecutive full months;
- (5) A \$1,000.00 fee, plus any costs for service of process, for a vacant structure or abandoned building that is on the vacant property registry for 12 consecutive full months; and
- (6) An additional \$20.00 fee for each consecutive day that a vacant structure or abandoned building remains on the vacant property registry beyond twelve consecutive months.

For any properties not currently on the vacant property registration, such fee schedule beings on the effective date of this ordinance. For any properties currently on the vacant property registration, such properties shall have their annual renewal at the fee set forth herein; provided that if such annual renewal is within 120 after the effective date of this ordinance, then such annual renewal shall be at the previous rate.

Any transfer of a property on the vacant property registration does not reset the time period of vacancy and such vacancy period shall continue to be calculated based upon the initial determination of vacancy date.

This ordinance shall be effective immediately upon passage by City Council.

Passed by the Council of the City of Clarksburg on the FIRST READING on the 6th day of March, 2025.

Passed by the Council of the City of Clarksburg on the SECOND AND FINAL READING on the 20th day of March, 2025.

MAYOR JAMES Malfregeot

ATTEST:

ANNETTE WRIGHT
CITY CLERK

APPROVED AS TO FORM BY:

RICHARD R. MARSH
CITY ATTORNEY

MEMORANDUM

To: Council
From: Manager
Date: March 3, 2025
Subj: Amendment of Vacant Property Ordinance

We are seeking to add automatic registration via the City Manager or her designee and significantly increase the fees for vacant structures. The changes are modeled after Charleston's ordinance.

First, we are adding a definition for abandoned buildings. An abandoned building is vacant for 90 days and has an unremedied building violation.

Second, we are providing a mechanism to add properties to the registry without owner involvement. Essentially, if we believe that a structure is vacant, then notice is given to the owner to either register it or provide evidence as to why it is not vacant. If this is not done within 30 days of notice, then the property can be added to the registry.

Third, we are significantly increasing the fees. The initial fee is \$250 to \$750, depending on whether the property is vacant, abandoned, or open. Vacancy occurs in 90 days. This increases to \$1000 for open properties that have been on the registry for 6 months or more. And it increases to \$1000 for other properties that are on the registry for 12 consecutive months. Finally, after 12 months, the fee increases to \$20 a day.

We also clarify that the timeframe does not restart if the property changes hands. If the property is conveyed, the new owner is stuck with the same calculation of vacant days. This encourages anyone to meet with the City before taking the property to seek a resolution.

There are still exceptions to the rule, including buildings that have been vacant for less than 2 years and have valid building permits. Further, any building that has good cause as to why it has been vacant.

Regarding the fees, if the property is not currently on the vacant property list, then these new fees begin immediately. If the property is already on the vacant property list, then the new fees start at their next annual renewal, unless that renewal is within 120 days after the ordinance. That means that anyone that is currently on the vacant list has at least 120 days (and up to a year) to resolve the vacancy issue.

**AN ORDINANCE AMENDING SECTION 1707.09 TO MODIFY REQUIREMENTS FOR
RESURFACING OF EXCAVATION OF CITY STREETS**

WHEREAS, the City of Clarksburg currently has ordinances regarding the cutting of pavement and excavation within the City's streets and sidewalks, as set forth in Article 1707.09;

WHEREAS, the City of Clarksburg desires to clarify the requirements for resurfacing of disturbed streets;

WHEREAS, the City of Clarksburg desires to more fully set forth the requirements for the resurfacing of the pavement cuts or excavations;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

Section 1707.09 of the Codified Ordinances of the City of Clarksburg be and is hereby amended as follows:

1707.09 SPECIFICATIONS FOR RESURFACING.

Anyone issued a permit to occupy a street or sidewalk or an excavation and street cut permit shall adhere to the following specifications and requirements:

- (a) If more than 20% of the cut or excavated street is impacted by the cut or excavation, then the street shall be resurfaced, including milling from edge to edge at a minimum depth of 1 ½ inches;
- (b) If more than 20% of a cut or excavated lane of a street is impacted by the cut or excavation, then the lane of a street shall be resurfaced, including milling from edge to the center of the travelled way at a minimum depth of 1 ½ inches;
- (c) Paving will be block to block with "heel in joints or if a shorter section is done, "heel in" joints will be provided 10' beyond the disturbance on each end;
- (d) The disturbed section is calculated by the following:
 - a. Measuring the width of the street beginning at one end of the excavation, followed by the length of the excavation, thereby

allowing a total square footage area of the affected street to be determined via width of the street times the length of the excavation. The same measurement and calculation should be repeated for the lane.

- b. Measuring the width of the excavation at its widest point, followed by the length of the excavation, thereby allowing a total square footage area of the excavation to be determined via width of the excavation times the length of the excavation.
- c. The percentage of the affected area is then determined by the square footage of the excavation divided by the applicable square footage of the street and/or lane, multiplied by 100.

(e) All repairs (or parts thereof) shall be done in accordance with any further specifications adopted or required by the City Engineer or the Director of Public Works.

This ordinance shall be effective immediately upon passage by City Council.

Passed by the Council of the City of Clarksburg on the FIRST READING on the 6th day of March, 2025.

Passed by the Council of the City of Clarksburg on the SECOND AND FINAL READING on the 20th day of March, 2025.

MAYOR JAMES MALFREGEOT

ATTEST:

ANNETTE WRIGHT
CITY CLERK

APPROVED AS TO FORM BY:

RICHARD R. MARSH
CITY ATTORNEY

MEMORANDUM

To: Council
From: Manager
Date: March 3, 2025
Subj: Amendment of Section 1707.09

Article 1707.09 requires any person, corporation, unincorporated association or public utility to take fix the road if excavations or cuts are made.

Given the amount of utility work upcoming, our concern is that if streets are not properly resurfaced and merely patched, we are going to have flooding problems and add to our pothole issues.

Currently, resurfacing is required if 30% of more of the street or lane is impacted. We propose lowering that to 20%. Therefore, if 20% of a lane is impacted, then that lane must be resurfaced. If 20% of the street is impacted, then the entire street

Additionally, it is unclear from the current ordinance whether the street has to be milled. We are clarifying that requirement.

Finally, we are adding a section explaining how to measure whether 20% of the street/lane is disturbed by the excavation.

**A RESOLUTION OF THE CITY OF CLARKSBURG, WEST VIRGINIA, APPROVING
PARKING AUTHORITY OF THE CITY OF CLARKSBURG'S CONTRACT WITH PARKEON,
INC. AND TO SECURE TAXABLE FINANCING**

WHEREAS, the City of Clarksburg, via its Charter, has created the Parking Authority of the City of Clarksburg;

WHEREAS, pursuant to Section 141.05 of the Codified Ordinances, the Parking Authority has the authority to make and enter contracts but any such contracts are to be approved by Council;

WHEREAS, the pay stations at the Jackson Square Parking Facility are deteriorated and in need of replacement;

WHEREAS, two pay stations are needed at the Jackson Square Parking Facility;

WHEREAS, the Parking Authority desires to two install pay stations at the Hewes Ave Parking Garage;

WHEREAS, the Parking Authority desires to install a pay station at the parking lots owned by the Harrison County Commission between Washington and Lee Avenue, Clarksburg;

WHEREAS, the Parking Authority has sent out requests for proposals and based on those received, have elected to contract with PARKEON, Inc, dba Flowbird for the purchase and installation of pay stations at Jackson Square Parking Facility; Hewes Ave Parking Garage; and Washington and Lee Avenue parking lot.

WHEREAS, the total cost of the project is estimated at \$39,000;

WHEREAS, the Parking Authority is intending to seek taxable financing proposals from various financial institutions and accept the best proposal;

WHEREAS, the Parking Authority will include funds for payment of the annual debt service costs in its budget for fiscal year 2025-2026;

WHEREAS, the Parking Authority intends to enter into an agreement with the Harrison County Commission regarding the pay station installed in its lot; and

WHEREAS, the Parking Authority approved this plan by resolution dated January 9, 2025.

Based on the foregoing, the City Council of the City of Clarksburg hereby resolves the following:

THEREFORE, BE IT RESOLVED that Council approves the Parking Authority's agreement with PARKEON, Inc, dba Flowbird for the purchase and installation of pay stations at the Jackson Square Parking Facility; Hewes Ave Parking Garage; and Washington and Lee Avenue parking lot; and further approves its plan to seek and enter into taxable financing to fund such purchase and installation.

Effective Date: This Resolution shall be effective upon passage.

PASSED by Council of the City of Clarksburg on this 6th day of March 2025.

JAMES MALFREGEOT, Mayor

ATTEST:

ANNETTE M. WRIGHT
CITY CLERK

APPROVED AS TO FORM:

RICHARD R. MARSH
CITY ATTORNEY