



**CITY OF ELKHORN  
COMMON COUNCIL MEETING AGENDA**

**May 6, 2024 - 5:30 pm or later,  
depending upon the conclusion of the COW meeting**

**Council Chambers, City Administration Offices, 311 Seymour Ct., Elkhorn, Wisconsin**

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4) **Public Comment** *Public comments are limited to three minutes each. The public may speak on any item of City concern whether or not the topic is included on this agenda. However, if the topic does not pertain to an item listed on the Council agenda, the Council is not permitted to address or discuss the matter during this meeting. Under open meeting laws, the Council must notice an item on the agenda to allow discussion on that matter. If Council is not permitted to discuss your concerns, your comments will be considered and may be placed on a future agenda for further discussion.*
- 5) **Consent Agenda** *(One motion & a second will approve all of the following items listed. Any item may be pulled from the list and handled separately.)*
  - a) Council Meeting Minutes April 16, 2024
  - b) Temporary Class "B" Beer licenses for the Walworth County Agricultural Society at the Walworth County Fairgrounds, Bull Riding on July 5 & 6, 2024; 4:00 pm -11:00 pm and July 7, 2024; 1:00 pm - 9:00 pm
  - c) Temporary Class "B" Beer license for the Walworth County Agricultural Society at the Walworth County Fairgrounds, Taco Fest on July 20, 2024; 11:00 am – 11:00 pm and July 21, 2024; 11:00 am - 9:00 pm
  - d) Beekeeping Permit Application for Javan Wehmeier at 147 N Water Crest Ct
- 6) **Report of City Officers**
  - a) Mayor
    - i) Mayoral Appointments
      - (1) Boards, Commissions & Liaisons
        - (a) Police and Fire Commissioners: Craig Rasmussen – member
        - (b) Board of Appeals: Tom Stotko, Dan Duchemin, Gary Welsh, James Boardman, Julie Taylor – members
        - (c) Historic Preservation Commission: James Boardman - Plan Commission member, Julie Taylor, John Gunyon, Lisa Brellenthin, Gary Welsh, Jean Carroll - Citizen members
  - b) City Administrator
- 7) **New Business**
  - a) Discussion and possible decision regarding amending 2024 budget to increase EEDA grant funds available by \$32,546.75, which is the amount of unused EEDA grant funds in 2022-2023
  - b) Discussion and possible decision regarding proposed Resolution No. 24-11: A Resolution Approving the Engagement Agreement with Pruitt, Ekes & Geary, S.C., as the Interim City Attorney for the City of Elkhorn
  - c) Discussion and possible decision regarding proposed Ordinance No. 24-04: An Ordinance Amending Section 1.03(2)(h)1 of the City of Elkhorn Municipal Code regarding the Appointment of the City Attorney and other Attorneys [*first and possible second reading*]

- d) Discussion and possible decision regarding request for proposals for city attorney
- e) Discussion and possible decision regarding proposed Resolution 24-12: A Resolution Approving an Interfund Loan from the City Electric Fund to Tax Incremental District #4
- f) Discussion and possible decision regarding the Conditional Use Permit for Outdoor dining located at 1 N Lincoln Street.
- g) Discussion and possible decision regarding City participation in “No Mow” May *[requested by Alderman Harkness]*

**8) Adjourn into Closed Session**

- a) Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(e) to deliberate on offers to purchase public property.
  - i) Lot 72 (Tax Key YA 396900001)
- b) Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(c)—to consider the employment, promotion, compensation or performance evaluation of data of any public employee over which the governmental body has jurisdiction or exercises responsibility—and pursuant to 19.85(1)(f)—to consider financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.
  - i) Review of findings from investigation ordered by Council on January 3, 2024
- c) Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(c) to consider the employment, promotion, compensation or performance evaluation of data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
  - i) Conducting annual performance review of City Administrator Adam Swann

**9) Reconvene in Open Session** for possible action on Closed Session items

The Common Council shall RECONVENE INTO OPEN SESSION reserving the right to take action on the matters discussed in CLOSED SESSION and to move to the remaining meeting agenda(s) as posted

- a) Discussion and possible decision regarding offer to purchase public property
  - i) Lot 72 (Tax Key YA 396900001)
- b) Discussion and possible decision regarding findings from investigation ordered by Council on January 3, 2024
- c) Discussion and possible decision regarding results of performance review of City Administrator Adam Swann

**10) Adjourn**

DATED at Elkhorn, Wisconsin, this 3rd day of May 2024

Rebeca Perez, Deputy City Clerk

Should you have any questions or comments regarding any items on this agenda, please contact the City Clerk’s office at (262) 723-2219. Upon reasonable notice to the City Clerk, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services.

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**CITY OF ELKHORN COMMON COUNCIL  
ORGANIZATIONAL MEETING MINUTES  
April 16, 2024  
COUNCIL CHAMBERS, 311 SEYMOUR CT., ELKHORN, WI 53121**

The Common Council meeting was called to order by Council President Shiroda at 5:30 p.m. in the Council Chambers, followed by the Pledge of Allegiance.

**Swearing in of Mayor Tim Shiroda, Alderpersons Ron Dunwiddie, Scott McClory, Kurt Harkness and Municipal Judge Lori Domino**

**ROLL CALL**

Present: Mayor Tim Shiroda, Alderpersons Gary Lee Payson Jr., Ron Dunwiddie, Scott McClory, Ken Meinel, Kurt Harkness.

Others present: City Administrator Adam Swann, Attorney Elaine Ekes, City Clerk Lacey Reynolds, Police Chief Joel Christensen, Director of Public Works Matthew Lindstrom, Interim Fire Chief Trent Eichmann, Finance Director Corrie Daly, Utility Field Office Coordinator Dawn Gall, City Engineer Mike Timmers, other interested persons.

**COUNCIL REORGANIZATION**

**Election: Council President**

*Motion (Meinel/McClory) to nominate Gary Lee Payson Jr. as Council President. Voice vote, all approved, motion carried.*

**Official City Newspaper: Elkhorn Independent**

*Motion (Payson Jr./Dunwiddie) to approve the Elkhorn Independent. Voice vote, all approved, motion carried.*

**Resolution 24-10: Designating Depositories and Authorizing Withdrawal of City Monies**

*Motion (McClory/Dunwiddie) to approve Resolution No. 24-10. Roll call vote: McClory, yes; Dunwiddie, yes; Payson Jr., yes; Harkness, yes; Meinel, yes. Motion carried.*

**Mayoral Appointments**

City Attorney (interim): Pruitt, Ekes, & Geary, S.C.

*Motion (Dunwiddie/Meinel) to appoint Pruitt, Ekes, & Geary, S.C. as the interim City Attorney. Voice vote, all approved, motion carried.*

**Council Committees**

Financial & Judicial: Gary Lee Payson, Jr. – Chair, Scott McClory, Ken Meinel

Municipal Services & Utilities: Ken Meinel – Chair, Kurt Harkness, New Alderperson for Ward 1

Public Safety: Ron Dunwiddie - Chair, Kurt Harkness, Gary Lee Payson, Jr.

Human Resources: Scott McClory – Chair, Ron Dunwiddie, Gary Lee Payson Jr.

Legislative & Regulatory: Ron Dunwiddie - Chair, Scott McClory, New Alderperson for Ward 1

*Motion (Payson Jr./Dunwiddie) to approve the listed committees. Voice vote, all approved, motion carried.*

**Boards, Commissions & Liaisons**

Planning Commission - Members: Jason Hunter and James Boardman, Liaison: Ken Meinel

Library - Member: Robert Kennedy (City of Elkhorn), Liaison: New Alderperson District 1

Fire Advisory Board - Liaison: Kurt Hartness

Board of Review - Member: Sarah Larsen, Alternate Member: Ken Gaudreau

*Motion (Meinel/McClory) to approve the listed boards, commissions and liaisons. Voice vote, all approved, motion carried.*

**PUBLIC COMMENT**

None.

**CONSENT AGENDA**

*Motion (Dunwiddie/McClory) to approve the Council Meeting Minutes from April 3, 2024 and the special use permit for Wilson Farm Meats at Wilson's Whistlestop – 20<sup>th</sup> Anniversary Celebration; June 1, 2024 from 11:00 am to 3:00 pm. Voice vote, all approved, motion carried.*

*Motion (Payson Jr./Dunwiddie) to approve Pay Request No. 7 from Rock Road Companies for the 2023 E. Centralia Street Reconstruction project in the amount of \$94,128.53. Roll call vote: Payson Jr., yes; Dunwiddie, yes; McClory, yes; Meinel, yes; Harkness, yes. Motion carried.*

#### **BILLS PAYABLE**

*Motion (Dunwiddie/Meinel) to approve the City and Utility Bills in the amount of \$2,072,759.14. Roll call vote: Dunwiddie, yes; Meinel, yes; Harkness, yes; McClory, yes; Payson Jr., yes. Motion carried.*

#### **REPORT OF CITY OFFICERS**

##### **MAYOR'S REPORT:**

Proclamation – May Mental Health Month. Mayor Shiroda declared May Mental Health Month and shared about events that will take place during the month of May.

Recognition of Alderperson Karel Young for 6 years of dedicated service to the City of Elkhorn. Mayor Shiroda thanked Alderperson Young for her service to the City from 2018-2024.

Swearing in of Interim Municipal Court Clerk Lacey L. Reynolds. Attorney Elaine Ekes swore in Interim Municipal Court Clerk Reynolds.

**CITY ADMINISTRATOR'S REPORT** – Administrator Swann congratulated Municipal Court Clerk Last on her retirement. Swann reported work continues with Creekside on their mixed-use development near the DMV. Swann and grant writer Katie James met with Dominic Sergi regarding the new park on N. Wisconsin and staff will meet with the railroad regarding the crossing near the Creekside Community Development.

#### **REPORTS OF CITY BOARDS AND COMMUNITY PARTNERS**

Fire Advisory Board – will meet next Thursday.

Library Board – Jennifer Wharton Youth Services Librarian reported for the month of March 18,000 materials were checked out and 99 new library cards were issued. The library hosted an event with the author of the very hungry caterpillar and hosted the EASD Elementary art show. Library staff participated in the exhale market and the library building needs assessment is moving forward.

Recreation Advisory Board – meeting tomorrow at 5:30 pm.

Chamber of Commerce – no report.

Community Grant Writer – Katie James reported she has been helping nonprofits in the area find funding.

#### **UNFINISHED BUSINESS**

Discussion and possible decision regarding Ordinance No. 24-03: an ordinance to rezone tax key parcel YVSE00001A, located at the intersection of County Hwy H and E Geneva St from B-2 to M-1 (*second reading*). *Motion (Dunwiddie/McClory) to approve Ordinance No. 24-03: an ordinance to rezone tax key parcel YVSE00001A, located at the intersection of County Hwy H and E Geneva St from B-2 to M-1 (second reading). Voice vote, all approved, motion carried.*

#### **NEW BUSINESS**

Discussion and possible decision regarding execution of Contract Change Order No. 5 for the E. Centralia Street Reconstruction project in the amount of \$1,450.00. *Motion (Payson Jr./Dunwiddie) to approve Contract Change Order No. 5 for the E. Centralia Street Reconstruction project in the amount of \$1,450.00. Roll call vote: Payson Jr., yes; Dunwiddie, yes; McClory, yes; Meinel, yes; Harkness, yes. Motion carried.*

Discussion and possible decision regarding proposed contract addendum no. 2 with Foth Infrastructure and Environment, LLC to provide loan application and loan administration services for Clean Water Fund

and Safe Drinking Water Fund loans for Centralia Reconstruction Project (Phase 2). *Motion (McClory/Payson Jr.) to approve contract addendum no. 2 with Foth Infrastructure and Environment, LLC to provide loan application and loan administration services for Clean Water Fund and Safe Drinking Water Fund loans for Centralia Reconstruction Project (Phase 2). Roll call vote: McClory, yes; Payson Jr., yes; Harkness, yes; Dunwiddie, yes; Meinel, yes. Motion carried.*

Discussion and possible decision regarding proposed amendment to listing contract between City and Anderson Commercial Group, LLC. *Motion (Dunwiddie/Meinel) to approve the amendment to the listing contract between the City and Anderson Commercial Group, LLC. Voice vote, all approved, motion carried.*

Discussion and possible decision regarding process for reviewing proposals received in response to City's RFP for building-inspection services. Administrator Swann reported the City received three proposals and asked the Council how they would like to proceed. The Council requested all three companies to be present during a Committee of the Whole meeting at 4:30 pm on May 6<sup>th</sup> prior to the Council meeting and for city staff to check references.

Discussion and possible decision regarding process for filling vacant alderman seat for District 1. Staff will advertise the vacancy asking for anyone living in District 1 interested in the position to submit a letter of interest to the City Clerk. The Council will interview candidates at the May 20<sup>th</sup> meeting.

Discussion and possible decision regarding process for appointing new city attorney. Staff will put together an RFP to be reviewed by the Council at the May 6<sup>th</sup> meeting.

#### **ADJOURN TO CLOSED SESSION**

*Motion (Payson Jr./Dunwiddie) to adjourn to closed session. Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(e) to deliberate on offers to purchase public property - Lot 72 (Tax Key YA 396900001). Closed Session: The Common Council may entertain a motion to go into CLOSED SESSION pursuant to Wisconsin Statutes Section 19.85(1)(c)—to consider the employment, promotion, compensation or performance evaluation of data of any public employee over which the governmental body has jurisdiction or exercises responsibility—and pursuant to 19.85(1)(f)—to consider financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations - review of findings from investigation ordered by Council on January 3, 2024. Voice vote, all approved, motion carried. Adjourned to closed session at 6:02 p.m.*

#### **RECONVENE IN OPEN SESSION**

Reconvened in open session at 6:23 pm. The Common Council shall RECONVENE INTO OPEN SESSION reserving the right to take action on the matters discussed in CLOSED SESSION and to move to the remaining meeting agenda(s) as posted.

Discussion and possible decision regarding offer to purchase public property Lot 72 (Tax Key YA 396900001). *Motion (McClory/Harkness) not to accept the offer and continue to negotiate in good faith. Voice vote, all approved, motion carried.*

Discussion and possible decision regarding findings from investigation ordered by Council on January 3, 2024. No action taken.

#### **ADJOURN**

*Motion (McClory/Dunwiddie) to adjourn at 6:24 pm. Voice vote, all approved, motion carried.*

Lacey L. Reynolds  
City Clerk



## APPLICATION FOR TEMPORARY CLASS "B" (Beer) And/Or "CLASS B" (Wine) RETAILER'S LICENSE

For serving or selling alcohol, pursuant to Elkhorn Ordinance 12.03

The named organization applies for:

- A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under WI Statute 125.26(6) (unlimited licenses allowed per year) **and/or**
- A Temporary "Class B" license to sell wine at picnics or similar gatherings under WI Statute 125.51(10) (two licenses allowed per year)

**Please Print Clearly**

**Organization Type:**

- Bona fide Club  
  Church  
  Lodge/Society  
  Veteran's Association  
 Fair Association  
 Civic or Trade Organization

Organization Name <b>Walworth County Agricultural Society</b>	Address <b>411 E Court St</b>	City & Zip Code <b>Elkhorn, WI 53121</b>
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Phone <b>262-723-3228</b>	Email <b>office@walworthcountyfair.com</b>
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Date Organized <b>April 28, 1842</b>	If Incorporated, date incorporated: <b>April 5, 1965</b>	Website <b>walworthcountyfair.com</b>
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President <b>David Adams</b>	Vice President <b>Jacob Polyock</b>
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Secretary <b>Eileen Walsh-Grzenia</b>	Treasurer <b>Susan Earle</b>
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Name of Event <b>Bull Riding</b>	Date(s): <b>July 5 &amp; 6, 2024</b>	Alcohol Sales Start Time: <b>4:00 pm</b>	Alcohol Sales End Time: <b>11:00 pm</b>
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Event Address (see below if a Wine Walk with more than one location; up to 20 locations allowed) <b>411 E Court St. Elkhorn, WI 53121</b>	Estimated Attendance <b>500</b>
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Describe Premises where beer/wine will be stored, sold and consumed (for Wine Walks, attach sheet listing each location address, premise description and licensed operator at each):  
**Walworth County Fair**

Licensed Operator (Must be present at all times, If not currently licensed in Elkhorn, complete Temporary Operator's Application): <b>Larry Gaffey</b>	Current City of Elkhorn Operator License No. <b>23-107-48</b>
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**DECLARATION**

The Officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief. This organization agrees to comply with all law, resolution, ordinances and regulations (federal, state and local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

Officer *Eileen Walsh-Grzenia* Date *11/7/2024*      Officer *Susan Earle* Date *1-17-24*

**NOTE: this application must be accompanied by a Special Events Permit Application to be considered. Fee may not be required.**

**Temporary B License Additional Information**

**May be Granted and Issued only to:** (1) Bona fide clubs that have been in existence for at least 6 months prior to the date of application. "Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. (2) State, county, civic or trade organizations, local fair associations, or agricultural societies. (3) Church, lodge, or society that has been in existence for at least 6 months prior to the date of application. (4) Posts now or hereafter established of ex-servicemen's organizations.

**Restrictions:** (1) License may not be issued to individuals. (2) Licenses to organizations, other than ex-servicemen's organizations, can be issued only for a picnic or similar gathering. They may not be issued for business or social meetings of the organization. (3) Licenses for club or organization meetings may be issued only to ex-servicemen's posts. (4) License may cover either a specified area or the entire picnic grounds. (5) License issued to a county or district fair must cover the entire fairground (ss. 125.26(6) and 125.51(10), Wis. Stats.) (6) No license to clubs having any indebtedness to any wholesaler for more than 15 days for beer (s. 125.33(7), Wis. Stats.) and 30 days for wine (s. 125.69(4)(b), Wis. Stats.) (7) Licensed operator(s) must be present at all times (ss. 125.26(6), 125.32(2) - Beer; 125.51(10), 125.68(2) - Wine; 125.17) (8) The licensed club, club members, or any other persons are not permitted to possess intoxicating liquor on licensed premises on the Temporary Class "B"/"Class B" licensed picnic area. (s. 125.32(6), Wis. Stats.) (9) Not more than 2 wine licenses may be issued to any club, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12 month period. (10) Licensed organizations must purchase their product from a licensed wholesaler. (11) Wine Walk: up to 20 locations in one day; organization must charge an admission fee for participation in the event, and no additional fee may be charged for service of fermented malt beverage/wine.

NOTE: Most coolers presently on the market have fermented malt beverage base allowing sale under a beer license (Bartles & James, Seagrams, etc.). Most hard ciders are not a fermented malt beverage or wine and may not be sold with a Temporary "Class B" or Class "B" license.

**Office Use Only** Date Received: \_\_\_\_\_ Date Approved by Common Council: \_\_\_\_\_ License No. \_\_\_\_\_



## APPLICATION FOR TEMPORARY CLASS "B" (Beer) And/Or "CLASS B" (Wine) RETAILER'S LICENSE

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- A Temporary "Class B" license to sell wine at picnics or similar gatherings under WI Statute 125.51(10) (two licenses allowed per year)

**Please Print Clearly**

**Organization Type:**

- Bona fide Club  
  Church  
  Lodge/Society  
  Veteran's Association  
  Fair Association  
  Civic or Trade Organization

Organization Name <b>Walworth County Agricultural Society</b>	Address <b>411 E Court St</b>	City & Zip Code <b>Elkhorn, WI 53121</b>
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Phone <b>262-723-3228</b>	Email <b>office@walworthcountyfair.com</b>
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Date Organized <b>April 28, 1842</b>	If Incorporated, date incorporated: <b>April 5, 1965</b>	Website <b>walworthcountyfair.com</b>
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President <b>David Adams</b>	Vice President <b>Jacob Polyock</b>
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Secretary <b>Eileen Walsh-Grzenia</b>	Treasurer <b>Susan Earle</b>
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Name of Event <b>Bull Riding</b>	Date(s): <b>July 7, 2024</b>	Alcohol Sales Start Time: <b>1:00pm</b>	Alcohol Sales End Time: <b>9:00pm</b>
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Event Address (see below if a Wine Walk with more than one location; up to 20 locations allowed) <b>411 E Court St. Elkhorn, WI 53121</b>	Estimated Attendance <b>500</b>
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Describe Premises where beer/wine will be stored, sold and consumed (for Wine Walks, attach sheet listing each location address, premise description and licensed operator at each):

**Walworth County Fair**

Licensed Operator (Must be present at all times, If not currently licensed in Elkhorn, complete Temporary Operator's Application): <b>Larry Gaffey</b>	Current City of Elkhorn Operator License No. <b>23-107-48</b>
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**DECLARATION**

The Officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief. This organization agrees to comply with all law, resolution, ordinances and regulations (federal, state and local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

Officer *Eileen Walsh-Grzenia* Date *11/17/2024* Officer *Susan Earle* Date *1-17-24*

**NOTE: this application must be accompanied by a Special Events Permit Application to be considered. Fee may not be required.**

**Temporary B License Additional Information**

**May be Granted and Issued only to:** (1) Bona fide clubs that have been in existence for at least 6 months prior to the date of application. "Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. (2) State, county, civic or trade organizations, local fair associations, or agricultural societies. (3) Church, lodge, or society that has been in existence for at least 6 months prior to the date of application. (4) Posts now or hereafter established of ex-servicemen's organizations.

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NOTE: Most coolers presently on the market have fermented malt beverage base allowing sale under a beer license (Bartles & James, Seagrams, etc.). Most hard ciders are not a fermented malt beverage or wine and may not be sold with a Temporary "Class B" or Class "B" license.

**Office Use Only** Date Received: \_\_\_\_\_ Date Approved by Common Council: \_\_\_\_\_ License No. \_\_\_\_\_





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 Fair Association  
 Civic or Trade Organization

Organization Name <b>Walworth County Agricultural Society</b>	Address <b>411 E Court St</b>	City & Zip Code <b>Elkhorn, WI 53121</b>
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Phone <b>262-723-3228</b>	Email <b>office@walworthcountyfair.com</b>
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President <b>David Adams</b>	Vice President <b>Jacob Polyock</b>
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Secretary <b>Eileen Walsh-Grzenia</b>	Treasurer <b>Susan Earle</b>
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Name of Event <b>Taco Fest</b>	Date(s): <b>July 20, 2024</b> <b>July 21, 2024</b>	Alcohol Sales Start Time: <b>11:00 am</b> <b>11:00 am</b>	Alcohol Sales End Time: <b>11:00 pm</b> <b>9:00 pm</b>
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Event Address (see below if a Wine Walk with more than one location; up to 20 locations allowed) <b>411 E Court St. Elkhorn, WI 53121</b>	Estimated Attendance <b>10,000</b>
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Describe Premises where beer/wine will be stored, sold and consumed (for Wine Walks, attach sheet listing each location address, premise description and licensed operator at each):

**Walworth County Fair**

Licensed Operator (Must be present at all times, if not currently licensed in Elkhorn, complete Temporary Operator's Application): <b>Larry Gaffey</b>	Current City of Elkhorn Operator License No. <b>23-107-48</b>
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Officer Eileen Walsh-Grzenia Date 1/17/2024      Officer Susan Earle Date 1/17/24

**NOTE: this application must be accompanied by a Special Events Permit Application to be considered. Fee may not be required.**

**Temporary B License Additional Information**

**May be Granted and Issued only to:** (1) Bona fide clubs that have been in existence for at least 6 months prior to the date of application. "Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. (2) State, county, civic or trade organizations, local fair associations, or agricultural societies. (3) Church, lodge, or society that has been in existence for at least 6 months prior to the date of application. (4) Posts now or hereafter established of ex-servicemen's organizations.

**Restrictions:** (1) License may not be issued to individuals. (2) Licenses to organizations, other than ex-servicemen's organizations, can be issued only for a picnic or similar gathering. They may not be issued for business or social meetings of the organization. (3) Licenses for club or organization meetings may be issued only to ex-servicemen's posts. (4) License may cover either a specified area or the entire picnic grounds. (5) License issued to a county or district fair must cover the entire fairground (ss. 125.26(6) and 125.51(10), Wis. Stats.) (6) No license to clubs having any indebtedness to any wholesaler for more than 15 days for beer (s. 125.33(7), Wis. Stats.) and 30 days for wine (s. 125.69(4)(b), Wis. Stats.) (7) Licensed operator(s) must be present at all times (ss. 125.26(6), 125.32(2) - Beer; 125.51(10), 125.68(2) - Wine; 125.17) (8) The licensed club, club members, or any other persons are not permitted to possess intoxicating liquor on licensed premises on the Temporary Class "B"/"Class B" licensed picnic area. (s. 125.32(6), Wis. Stats.) (9) Not more than 2 wine licenses may be issued to any club, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12 month period. (10) Licensed organizations must purchase their product from a licensed wholesaler. (11) Wine Walk: up to 20 locations in one day; organization must charge an admission fee for participation in the event, and no additional fee may be charged for service of fermented malt beverage/wine.

NOTE: Most coolers presently on the market have fermented malt beverage base allowing sale under a beer license (Bartles & James, Seagrams, etc.). Most hard ciders are not a fermented malt beverage or wine and may not be sold with a Temporary "Class B" or Class "B" license.

**Office Use Only** Date Received: \_\_\_\_\_ Date Approved by Common Council: \_\_\_\_\_ License No. \_\_\_\_\_



**TO:** City Council – City of Elkhorn

**FROM:** Department of Building and Zoning

**Common Council Meeting: Monday, May 6, 2024 at 5:30 pm**

**Beekeeping Permit  
Common Council Action**

**General Information:**

Applicant(s):

Javan, Jenny, and Jonah Wehmeier

Requested Action:

Beekeeping Permit

**Site Information:**

Location:

147 North Water Crest Court

Tax Key:

YEW2 00114

**Project History:**

The applicant is requesting a beekeeping permit at their primary residence in the rear yard that backs up to a pond/wetland area that will never be developed. The property owner is requesting one hive, with 10 frames, and an Italian queen bee. The property owners are in compliance with all requirements of the City Ordinance. Zoning Administrator has agreed to allow the beehive closer than 10 feet to the lot line, as there is no residential development in the rear yard.

**Staff Recommendations:**

1. Staff recommends that the Common Council **APPROVE** the beekeeping permit for the property located at 147 North Water Crest Court.

# APPLICATION FOR BEEKEEPING PERMIT



**General Information** (please type or print clearly)

	Applicant/Beekeeper	Property Owner*
Name	Javan, Jenny & Jonah Wehmeier	Javan and Jenny Wehmeier
Address	147 North Water Crest Court Elkhorn, WI 53121	
Phone	262-723-8529	
Email	jennyw@828@gmail.com	

\* A Letter of Approval from the Property Owner is required if beekeeper is tenant at property

**Property where hive(s) will be located**

Address: 147 North Water Crest Court Elkhorn, WI

Size of Property: .311 acre

**Beekeeping Information** (see attached)

Number of Proposed Hives: 1 Breed of Queen: Italian

Type of flyway barrier: none needed

Water Source to be provided: adjoining pond - additional as needed shallow baths

**Attachments** The following items shall be provided.

- A scale drawing of the site, showing the location of the hive(s), flyway barrier, water source, lot lines and setbacks, and habitable buildings within 25 feet of the hives.
- Photographs, drawings, or manufacturers brochures describing the materials and dimensions of all hives.
- Letter from property owner where hive(s) will be kept (if property is not owned by the applicant).
- Neighbor Notification Form from all adjoining and diagonally abutting property owners, including those across an alley, provided to neighbors at least 15 days prior to review by the Common Council

**Signature**

The undersigned person hereby petitions the City of Elkhorn, Wisconsin, to issue a Beekeeping Permit for the keeping of bees in the City as described above and on the attached documents. If all neighbors approve, no written objections are received, city staff verifies that the conditions and standards have been/will be met, and the application is approved by the Common Council, a permit shall be issued by the City Clerk.

Upon issuance of Permit, the undersigned hereby agrees to contact the City of Elkhorn Zoning Administrator at 262-741-5124 to setup a site inspection for location of apiary, water source and flyway barrier. Upon inspection and approval of premise, the Zoning Administrator shall sign permit thereby completing permit application process.

Signature: Jonah Wehmeier Date: 4-26-24

**Office Use Only**

<u>4/26/24</u>	Date Application, Fee & Neighbor Notification Form Received
<u>4/26/24</u>	Date Provided to Zoning Administrator
_____	Date Provided to Common Council ___ Approved ___ Denied
_____	Date Permit Issued ~ Permit No.: _____
_____	Date Inspected by Zoning Administrator ___ Approved ___ Denied

Beekeeping Applicant: Jonah Wehmeier

Address for Potential Bee Hives: 147 N. Water Crest Ct.

**NEIGHBOR NOTIFICATION FORM- SIGNATURE PAGE**

**NEIGHBORS PLEASE FILL OUT BELOW:**

Name: Ms. Eilena Athans Date: 4-4-24

Address: 151 N. Water Crest Ct. Phone: \_\_\_\_\_

- I have been provided with information regarding my neighbor's application to keep bees
- Approve  Object  Household resident with demonstrable medical condition

SIGNATURE: \_\_\_\_\_

**NEIGHBORS PLEASE FILL OUT BELOW:**

①

Name: Mr. Mark Quin Date: 4-4-24

Address: 143 N. Water Crest Ct. Phone: 762-763-9023

- I have been provided with information regarding my neighbor's application to keep bees
- Approve  Object  Household resident with demonstrable medical condition

SIGNATURE: Mark Quin

**NEIGHBORS PLEASE FILL OUT BELOW:**

②

Name: Chris Elliott Date: 4/4/24

Address: 156 N Wild flower Ln Phone: 262-470-9711

- I have been provided with information regarding my neighbor's application to keep bees
- Approve  Object  Household resident with demonstrable medical condition

SIGNATURE: Chris Elliott

**NEIGHBORS PLEASE FILL OUT BELOW:**

③

Name: Eilena Athans Date: 4/8/24

Address: 151 N Water Crest, Elkhor, WI Phone: 815-575-6403

- I have been provided with information regarding my neighbor's application to keep bees
- Approve  Object  Household resident with demonstrable medical condition

SIGNATURE: Eilena Athans

Beekeeping Information Addendum

Number of Proposed Hives: One

Breed of Queen: Italian

Hive Description: 10-frame Langstroth bee hive with two full depth hive bodies and two medium depth supers (no shallow supers) (images below)

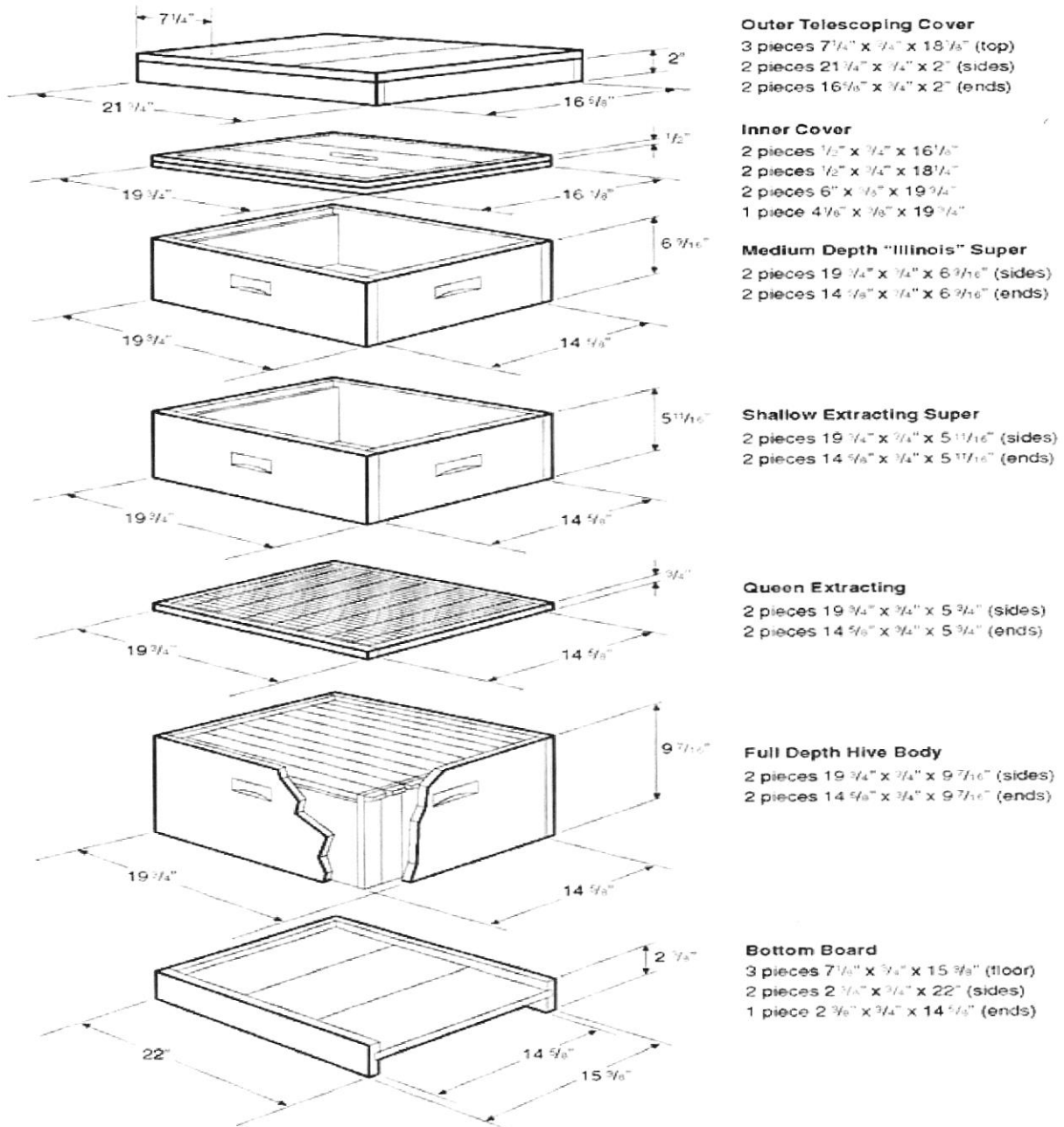


Figure 21. The parts of a modern honey bee hive.

# Langstroth Hive

Outer Cover  
with Inner Cover  
hidden underneath

Medium  
Super for  
Honey

Queen  
Excluder

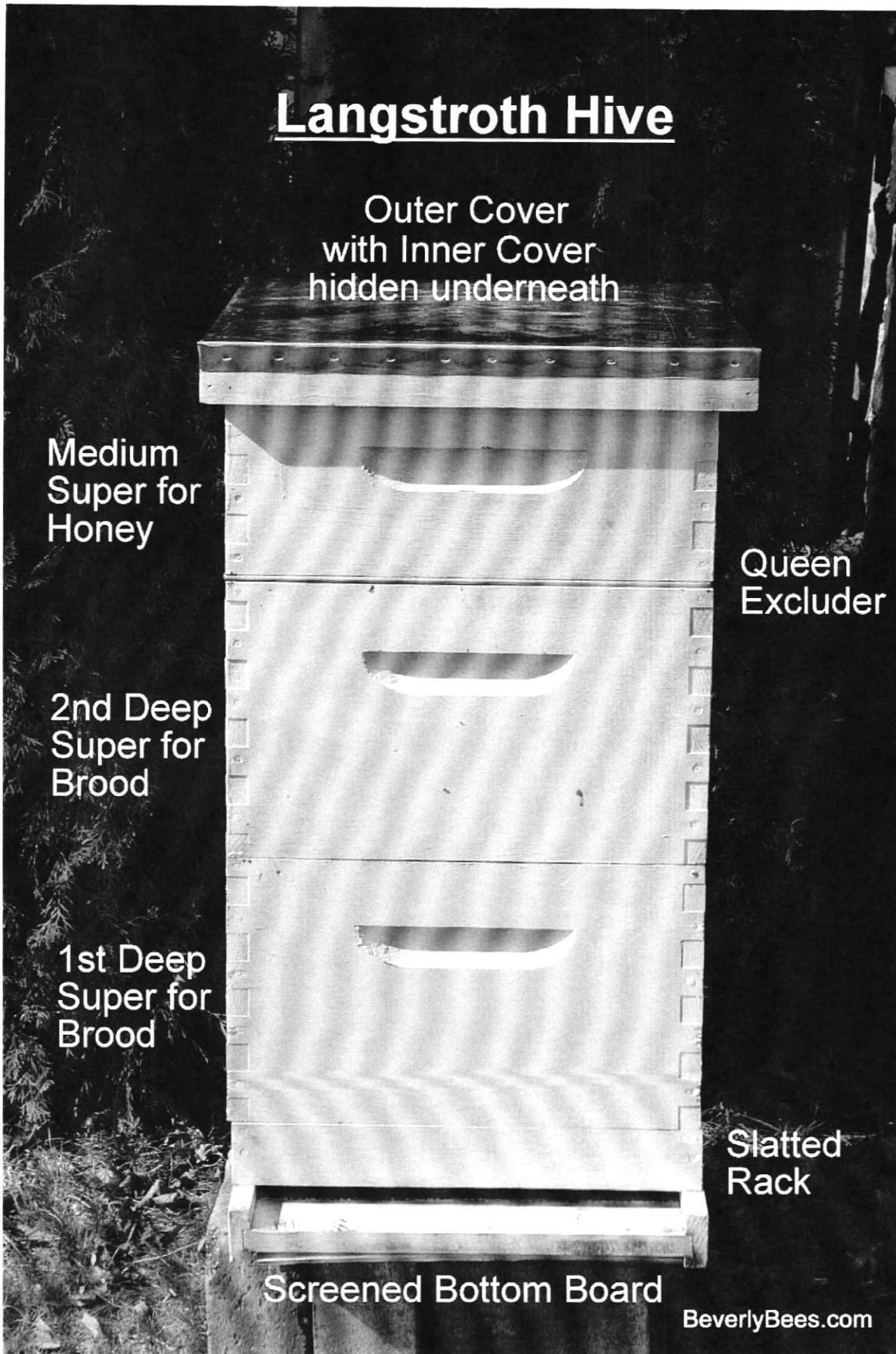
2nd Deep  
Super for  
Brood

1st Deep  
Super for  
Brood

Slatted  
Rack

Screened Bottom Board

[BeverlyBees.com](http://BeverlyBees.com)



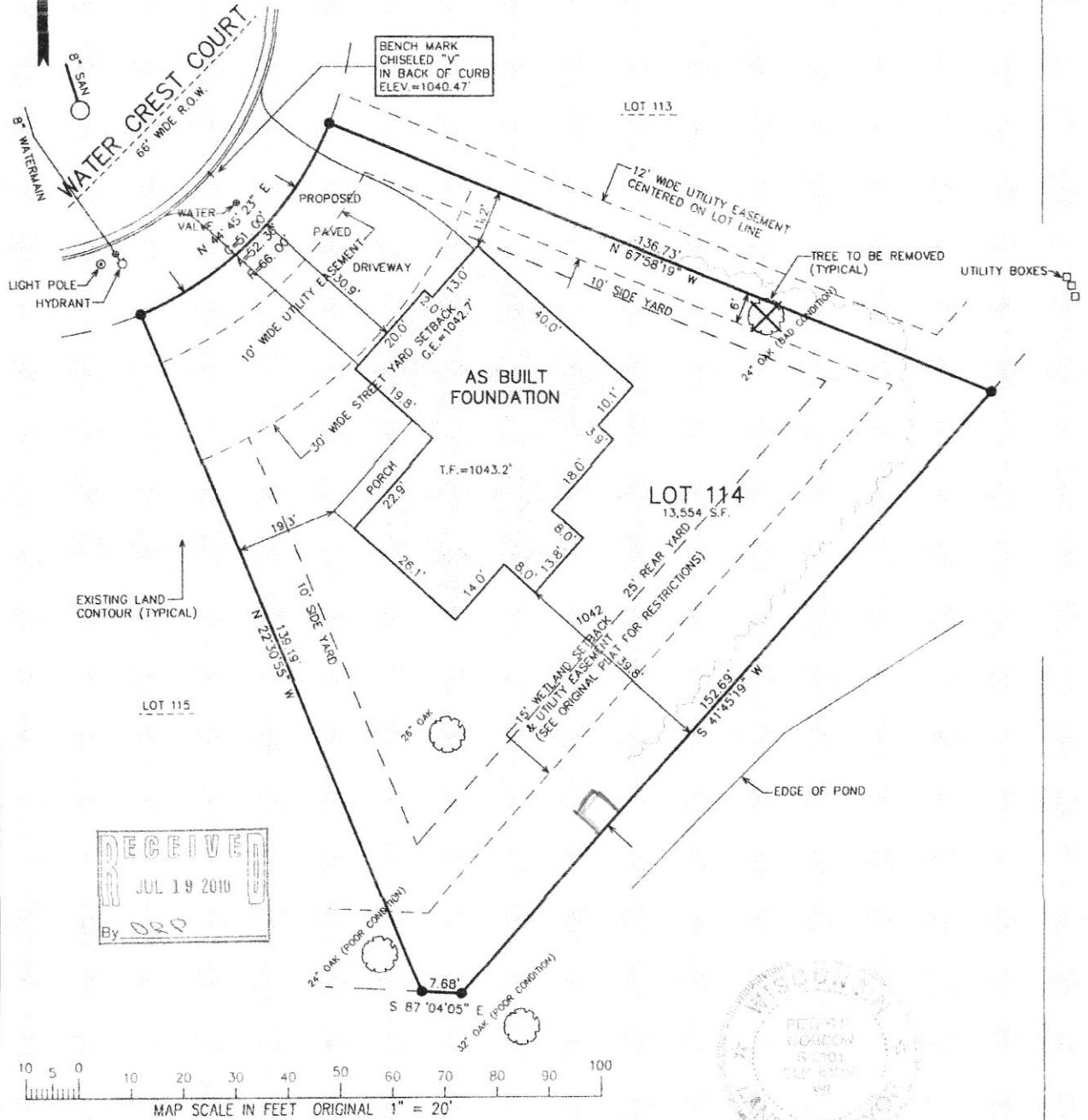
# FARRIS, HANSEN & ASSOCIATES, INC.

ENGINEERING - ARCHITECTURE - SURVEYING  
 7 RIDGWAY COURT - P.O. BOX 437 - ELKHORN, WISCONSIN 53121  
 PHONE: (262) 723-2098 FAX: (262) 723-5886

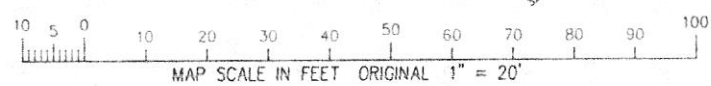
- WORK ORDERED BY -  
 DAN CARMODY  
 5803 GLEN HAVEN DRIVE  
 GREENDALE, WI. 53129

## PLAT OF SURVEY

LOT 114 OF ELKHORN WEST ADDITION NO. 2  
 LOCATED IN PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 35  
 TOWN 3 NORTH, RANGE 16 EAST, CITY OF ELKHORN, WALWORTH COUNTY, WISCONSIN



RECEIVED  
 JUL 19 2010  
 By: DRD



NOTE: COPIES OF THIS MAP TO WHICH THE FOLLOWING CERTIFICATE WILL APPLY SHOW THE SURVEYOR'S ORIGINAL SEAL AND SIGNATURE IN RED INK. COPIES BY ANY OTHER MEANS MAY HAVE ALTERATIONS WHICH DO NOT REPRESENT THE SURVEYOR'S WORK PRODUCT.

I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY HAS BEEN SURVEYED UNDER MY DIRECTION AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY AND ITS EXTERIOR BOUNDARIES. THIS SURVEY IS MADE FOR THE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE YEAR FROM THE DATE HEREOF.

- LEGEND
- = SET IRON REBAR STAKE
  - = FOUND IRON PIPE STAKE
  - (xxx) = RECORDED AS

REVISED 3/15/2010-KB  
 TO ADD TOPOGRAPHICAL INFORMATION  
 REVISED 4/20/2010-KB  
 TO SHOW SIZE & LOCATION OF PROPOSED RESIDENCE

DATED: SEPTEMBER 12, 2005

REVISED 06-08-2010  
 TO SHOW AS BUILT FOUNDATION

PETER S. GORDON R.L.S. 2101

PROJECT: 6103.02.114  
 DATE: 09/12/2005  
 SHEET 1 OF 1



# MEMO

TO: Mayor Tim Shiroda  
Alderman Ronald Dunwiddie  
Alderman Kurt Harkness  
Alderman Scott McClory  
Alderman Ken Meinel  
Alderman Gary Payson, Jr.  
Alderman for District 1 (vacant)

FROM: Adam Swann

DATE: May 3, 2024

RE: Common Council Meeting on May 6, 2024

## City Administrator Report

- **Interim grading permit for Creekside Community Development**

The city engineer has approved Creekside Community's interim grading permit application, so the developer will be able to move dirt once they submit their letter of credit. City staff and the City engineers are continuing to meet weekly with Creekside Community Development to review and discuss the specific implementation plan, which still needs to be submitted to the Plan Commission and Council for approval.

- **Completion of apprenticeship by Nathan Porter**

Nathan Porter, a member of the Electric Department, recently completed his four-year apprenticeship to become a journeyman.

- **Start of 2024 Northeast Water Treatment Plant water and sewer extension project**

Construction has started on the NEWTP water and sewer extension project. As part of the project, a section of Cobb Road near the NEWTP is shut down until approximately May 17, 2024.

- **Removal of structures at future City park**

The house and related structures have been removed from the 40-acre City parcel on the north side of the City.

## **New Business**

- **Discussion and possible decision regarding amending 2024 budget to increase EEDA grant funds by \$32,541.50, which is the amount of unused EEDA grant funds in 2023**

The City funds a building improvement grant program through the EEDA, which provides a 20% match for improvements to commercial buildings in the City. The focus is on exterior façade improvements, although some interior improvements are currently permitted (e.g., energy efficiency, ADA, and repurposing for retail). The EEDA did not receive any grant applications in 2023, and as a result, \$32,541.50 in grant funds were not used.

The EEDA has received several inquiries from building owners interested in projects in 2024, but the City budgeted approximately \$22,500 for grants in 2024, so the EEDA has inquired as to whether the City would increase the grant funds available in 2024 by the amount of unused funds from 2023—i.e., \$32,541.50. These funds come from the City’s Community Development Fund, which is funded through sales of City property, lodging taxes, and zoning and building permit fees. (The fees the City pays for zoning services and building inspections are deducted from this account.) The Community Development Fund has approximately \$665,008.63 as of today’s date, although the fund has seen higher expenses due to increased fees for legal services, zoning administration, and building inspections.

- **Discussion and possible decision regarding issuance of a request for proposals for city attorney services**

Your Council packet includes a draft of an RFP for city attorney services. If the Council is agreeable to the RFP, the City will start advertising for proposals on May 7, 2024, and proposals will be due by Monday, June 3, 2024 at 8:00 a.m. Due to the fact that the city attorney position is appointed by the mayor, with confirmation by the Council, the mayor and Council president will

review the proposals and conduct interviews in early June. The mayor will then make an appointment for Council confirmation.

- **Discussion and possible decision regarding proposed Resolution 24-12: A Resolution Approving an Interfund Loan from the City Electric Fund to the Tax Incremental District #4**

As the Council is aware from prior years, the increment generated by TID 4 is not sufficient to cover the yearly principal and interest payments on the TID 4 debt. The shortfall for 2024 is \$207,144.67. In the past the City has covered this shortfall by advancing funds from the Electric Fund to TID 4. (The interfund loan was \$175,225.49 in 2023; this was lower than 2024 due to the availability of some unused funds from the original borrowing.) Proposed Resolution 24-12 would transfer \$175,225.49 from the Electric Fund to TID 4 as an interfund loan.

One of the reasons the Creekside Development project is so important (in addition to creating new residential units) is that it will help generate additional revenues for TID #4 and reduce the deficit in the coming years—and hopefully generate enough increment to pay back the Electric Fund. In addition, the Holiday Inn Express & Suites recently sold for significantly more than the hotel’s assessed value, so when the hotel is reassessed in the future, this should help generate additional increment. The Love’s Travel Plaza’s assessment increased 30% to \$5,663,100 in 2024. Furthermore, the property where the restaurant shell is located increased from \$177,900 to \$817,000. In total the TID 4 properties experienced an increase in value of \$4,010,500 for 2024, which will be reflected in next year’s taxes, assuming the valuations are not reduced during the appeal process.

- **Discussion and possible decision regarding City participation in “No Mow” May**

The Council discussed participating in “No Mow” May last year. The Council declined to participate. Alderman Harkness requested that this item be placed on the agenda. As a refresher on this issue, I’ve included two articles—one about Wisconsin cities participating in “No Mow” May and one about a Wisconsin city that reversed its decision to participate. As a reminder, City Code requires weeds and grass to be kept to a height not to exceed one foot.

**CITY OF ELKHORN  
RESOLUTION NO. 24-11**

**RESOLUTION APPROVING THE ENGAGEMENT AGREEMENT WITH  
PRUITT, EKES & GEARY, S.C. AS THE INTERIM CITY ATTORNEY FOR THE  
CITY OF ELKHORN**

WHEREAS, that on April 16, 2024, the Mayor appointed and the City Council confirmed the appointment of Pruitt, Ekes & Geary, S.C. as interim City Attorney for the City of Elkhorn;

WHEREAS, Pruitt, Ekes & Geary, S.C. has submitted for approval an engagement agreement for the firm to provide legal services to the City, including prosecution services, which engagement agreement is attached hereto as **Exhibit A**; and

WHEREAS, Pruitt, Ekes & Geary, S.C. shall act as the legal advisor to the City and shall be responsible for providing legal services to the City as may be requested from time-to-time as further set forth in the City's Code of Ordinances; and

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Elkhorn confirms the designation of the members of the firm Pruitt, Ekes & Geary, S.C. as follows: Elaine S. Ekes as the City Attorney, and the designations of Timothy J. Pruitt, Christopher A. Geary and Rebecca J. Shepro as Assistant City Attorneys.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Common Council of the City of Elkhorn approves the engagement agreement for legal services attached hereto as **Exhibit A** effective as of April 16, 2024.

PASSED AND ADOPTED by the Common Council of the City of Elkhorn on the \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Tim Shiroda, Mayor

ATTEST:

\_\_\_\_\_  
Lacey L. Reynolds, City Clerk

# EXHIBIT A



Timothy J. Pruitt  
Elaine Sutton Ekes  
Christopher A. Geary  
Rebecca J. Shepro

---

Office Administrator:  
Eileen M. Zaffiro

Pruitt, Ekes & Geary, S.C.

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245 Main Street, Suite 404, Racine, WI 53403 Phone: 262-456-1216 Facsimile: 262-456-2086 www.peglawfirm.com

April 30, 2024

Mr. Adam G. Swann  
City Administrator  
City of Elkhorn  
311 Seymour Court  
Elkhorn, WI 53121

*RE: Legal Services – Interim City Attorney*

Dear Adam:

Thank you for the opportunity to provide legal services to the City of Elkhorn. This engagement agreement governs municipal legal services that our firm will provide to the City of Elkhorn, as the interim City Attorney, including acting as the City Prosecutor at the City of Elkhorn Municipal Court, effective as of April 16, 2024. We anticipate that our relationship will be a pleasant one. We expect that you will be fully satisfied with our performance. We are committed to providing the City with the best quality legal services. Set forth below is additional information related to our representation of the City. Generally, we understand that the City has engaged other attorneys to provide specialized legal services for employment and labor related matters, municipal borrowing and bonding, court litigation (including nuisance and code enforcement), defense on assessment challenges and environmental law. This engagement agreement is separate and distinct from our engagement agreement dated May 1, 2023 to provide legal services for zoning and land use planning matters to the City, which at this time still continues.

#### Scope of Services

The services to be provided by our firm will be limited to those in which City staff/officials consult with the attorneys from our firm. The City will designate appropriate City staff/officials to be the point(s) of contact for purposes of requesting legal assistance on matters affecting the City. In reliance upon information and guidance provided by the City, we will provide legal services in accordance with this engagement agreement.



During the course of representation, we may express opinions or beliefs concerning the matters on which you have asked for our legal assistance and the results that might be anticipated. However, you acknowledge that we cannot promise or guarantee results and any such statement made by us is an expression of opinion only.

### Fees and Expenses

The amount of our legal fees shall be determined by the time expended to perform these legal services. Our hourly municipal rate for services provided by the attorneys is \$250.00 per hour. Time is rounded up to the nearest one-tenth of an hour. Travel time is billed at the same hourly rate. If we are required to travel out of town to represent the City in a court-related matter or other matters that require overnight accommodations, the hard costs incurred, and time spent for working hours would be charged to the City. Non-attorney paralegal level staff hourly rate is billed at \$70.00 per hour for special projects. Work completed by law clerks is billed out at \$100.00 per hour. Mileage will be charged at the current IRS deductible expense rate. The City will also be charged for expenses incurred by us on behalf of the City at cost. Document copies for larger projects will be charged at the rate of \$.10 per page.

We will send you a monthly invoice describing the services rendered and the costs incurred. The description of the services will include the date of each service, the amount of time spent in minimum increments of one-tenth of an hour and the corresponding charge, and a brief summary of the service provided. The monthly invoice will also itemize the costs incurred on your behalf (if any). The account balance is due upon receipt of the statement. If the account balance is not paid within 30 days from the date of the statement, a late charge of 1% per month will be assessed. If the account becomes more than 90 days past due, we may seek to withdraw from representing the City after providing you with a reasonable notice.

At the end of each calendar year, our hourly rates may be increased to offset increased costs of operation (we look to various factors in determining hourly rates, including the percentage increase in the consumer price index for that year, if any). We will notify you in writing if the hourly rates are adjusted prior to utilizing the new rates.

### Conflicts

We have performed a conflicts check and determined that there are no conflicts of interest with present or former clients that prevent us from representing the City. We expect that if you become aware of any potential conflicts of interest, you will advise us immediately, and we will do the same. We will then take prompt and appropriate action to address the conflict.

### Communications

We will keep the designated City staff member informed of our progress in the various matters in which we are consulted and will make every effort to respond to calls and emails as promptly as possible. We urge you to notify us immediately if, at any time and for any reason, our professional services do not fulfill your expectations. Additionally, in order to adequately represent the City, it is essential that you keep us informed of developments related to our

representation. Our firm primarily communicates with its clients via unencrypted internet email. While unencrypted email is convenient and fast, there is risk of interception, not only within our internal networks and the systems used by internet service providers, but elsewhere on the internet and in the systems of our clients and their internet service providers. We understand that we may use unencrypted email to communicate with City staff unless you advise us not to do so.

### Termination of Representation

You may discharge us as your attorneys at any time by written notice. On termination, all fees and costs incurred prior to termination shall be paid promptly. We reserve the right to withdraw from your representation at any time by written notice. Reasons for termination may include the client's failure to honor the terms of the engagement letter, the client's failure to pay amounts billed in a timely manner, or any fact or circumstance that would, in our view, impair an effective attorney client relationship or would render our continuing representation unlawful or unethical. If we elect to do so, the client agrees to the execution of any documents (including forms for substitution of counsel) necessary to complete our withdrawal.

### Retention of File

At the conclusion of our engagement, we will return any original documents to the City and retain the file for seven (7) years. At the expiration of this retention period, the file will be destroyed without additional notice to you. Please contact us any time before the retention period expires if you would like us to provide the City with a copy of all or any portion of the file before it is destroyed.

### Limited Liability

Please be advised that Pruitt, Ekes & Geary, S.C. is a Wisconsin Service Corporation. The Wisconsin Supreme Court requires firms that operate in a form that limits liability to advise clients that the law governing such entities shields its owners from vicarious liability. This means that in the event of an error, the firm and its insurer may be liable, as may the attorney who worked on or directly supervised the matter, but not other attorneys who did not work on or directly supervise the matter. The Supreme Court also requires firms operating as limited liability entities to register annually with the State Bar of Wisconsin and to carry certain minimum liability insurance coverage. Our firm's insurance policy well exceeds the minimum coverage requirements.

### Dispute Resolution

We believe that most disagreements can be resolved to mutual satisfaction in a friendly, non-threatening environment. While we do not expect there to be any problems whatsoever with our relationship, disagreements can occur. In the event that there is any dispute concerning fees, costs, expenses, disbursements, or in the event of non-payment, the parties agree that such dispute will be brought to conclusion by mandatory and binding arbitration administered by the State Bar of Wisconsin pursuant to its Rules of Resolution of Fee Disputes. Either party may enter judgment on such an arbitration award for enforcement by any court of competent jurisdiction pursuant to Chapter 788, Wis. Stats. Either party may serve notice of its intent to arbitrate on the other by regular mail. The arbitrator's fees and costs shall be borne equally by the parties, and the arbitrator

Mr. Adam G. Swann  
City Administrator  
April 30, 2024  
Page 4

shall have the right to award costs to the prevailing party. This agreement shall be governed by the laws of the State of Wisconsin.

Thank you again for the opportunity to provide legal representation to the City. After reviewing this letter and upon approval by the Common Council, please have Mayor Shiroda and Ms. Reynolds sign as Mayor and Clerk, date and return one copy to us. We look forward to working with you.

Sincerely,

**PRUITT, EKES & GEARY, S.C.**



Elaine S. Ekes

*esekes@peglawfirm.com*

ESE:emz

AGREED AND ACCEPTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF ELKHORN**

BY: \_\_\_\_\_

Tim Shiroda  
Mayor

Attest: \_\_\_\_\_

Lacey Reynolds  
City Clerk

## CITY OF ELKHORN

### ORDINANCE NO. 24-04

#### AN ORDINANCE AMENDING SECTION 1.03(2)(h)(1) OF THE CITY OF ELKHORN MUNICIPAL CODE REGARDING THE APPOINTMENT OF THE CITY ATTORNEY AND OTHER ATTORNEYS

The Common Council of the City of Elkhorn do ordain as follows:

PART I. Section 1.03(2)(h)(1) of the Municipal Code is hereby amended to read as follows:

“1. City Attorney.

- a. *City Attorney.* The City Attorney shall be appointed by the Mayor, subject to the confirmation of the Common Council as provided for under Sec. 1.03(2)(c) and shall hold office at the pleasure of the Council. To the extent that the City appoints a law firm as its legal advisor, the City shall designate a member of that firm as the City Attorney. The City Attorney shall be duly authorized to practice in the courts of the State of Wisconsin and if a law firm, the law firm shall have attorney members who are duly authorized to practice in the courts of the State of Wisconsin. The City Attorney shall advise on those matters and perform those duties as may be assigned by the City as prescribed in Sec. 62.09(12), Wis. Stat., and this Code. The City may also designate an assistant city attorney or attorneys, who shall have power to perform the City Attorney’s duties. In the case of the appointment of a law firm, such attorneys shall be compensated by the City in accordance with the contract for engagement. The City Attorney shall have no responsibility for matters in which they have not been consulted or for which the City has engaged other attorneys.
- b. *Other attorneys.* The City, with the prior approval of the Common Council, may engage an attorney or law firm, on an on-going or a matter-specific basis, to handle specific matters that would otherwise be handled by the City Attorney. These attorneys may include, but are not limited to:
  - (i) *Prosecuting attorney.* The prosecuting attorney shall be the City Attorney (or a member of the appointed law firm) unless a different attorney is appointed. The prosecuting attorney shall advise and represent the City in enforcing municipal ordinances in Municipal Court.
  - (ii) *Labor and employment attorney.* The labor and employment attorney shall represent and advise the City in connection with labor and employment matters, including without limitation the negotiation of collective bargaining agreements, employee discipline, and the creation and enforcement of employee policies and contracts. The City labor and employment attorney shall keep the Common Council and staff informed of

changes in federal and state labor and employment law that affect the City and shall promptly recommend any appropriate amendments to this Code resulting from such changes.

- (iii) *Specialized Counsel.* Specialized litigation or other specialized area of law such as environmental; or
- (iv) *Conflict of Interest.* When the City Attorney or other engaged attorneys has a conflict of interest.
- c. *Contract.* The City shall enter into an engagement agreement with any attorney approved by the Common Council that specifies the terms and conditions of the firm's and/or attorney's appointment or engagement.
- d. *Independent legal judgment.* When rendering legal advice and services, an attorney shall exercise independent legal judgment. No City official shall interfere with the exercise of an attorney's independent legal judgment or direct the conclusions of any legal opinion.
- e. *Delegation.* Unless otherwise instructed by the [Mayor or Administrator], any attorney at an engaged firm may work on an assigned matter.
- f. *Employee Benefits.* Any attorney engaged by the City shall not be entitled to City employment benefits unless specifically authorized by the Common Council.”

PART II. The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

PART III. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART IV. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED AND ADOPTED by the Common Council of the City of Elkhorn on the \_\_\_\_ day of \_\_\_\_\_, 2024.

APPROVED:

\_\_\_\_\_  
Tim Shiroda, Mayor

ATTEST:

\_\_\_\_\_  
Lacey L. Reynolds, City Clerk



**CITY OF ELKHORN**

**REQUEST FOR PROPOSALS (RFP)**  
**CITY ATTORNEY**

**Issued May 7, 2024**



**CITY OF ELKHORN**  
**REQUEST FOR PROPOSALS**  
**CITY ATTORNEY**

**May 7, 2024**

The City of Elkhorn is seeking proposals from qualified, licensed attorneys or law firms to serve in the position of city attorney. The individual or firm submitting a response to this request should have at least five (5) years of experience providing legal services to a municipality or local government. The city attorney position is appointed by the mayor, subject to confirmation by the Common Council.

**Proposals may be mailed or delivered electronically. All proposals must be received by no later than 8:00 a.m. on Monday, June 3, 2024.** Proposals delivered or received after the submittal deadline will be deemed late and rejected. There are no exceptions to this requirement.

If submitting a proposal by mail, the proposal must be placed in a sealed envelope, plainly marked “Sealed Proposal for City Attorney Services” and addressed to the following:

Adam Swann  
City Administrator  
311 Seymour Ct.  
Elkhorn, WI 53121

If submitting a proposal electronically, please send it to Adam Swann, City Administrator, at [aswann@cityofelkhorn.org](mailto:aswann@cityofelkhorn.org).

Inquiries regarding this RFP may be directed to Adam Swann, City Administrator, at (262) 723-2219 or [aswann@cityofelkhorn.org](mailto:aswann@cityofelkhorn.org).

## **BACKGROUND**

### **Community Info**

The City of Elkhorn is located in the center of Walworth County, Wisconsin, and serves as the county seat. Elkhorn has a population of approximately 10,240 people according to the most recent 2022 Census estimate. In the past year the City has seen an increase in commercial and industrial development, and there is a large mixed-use residential and commercial project under development. The City's desirable location near the crossroads of I-43 and Highway 12 is likely to encourage growth in the City for the foreseeable future.

### **Organizational Structure**

Elkhorn operates under the mayor-council form of government and has a city administrator, appointed by the Council, who is responsible for overseeing the day-to-day operations.

Pursuant to City Code Section 1.03(2), the city attorney is appointed by the mayor, subject to confirmation by the Common Council. Meetings of the Common Council are usually held on the first and third Mondays of the month at 5:30 p.m. The Common Council also utilizes boards and Council committees for providing recommendations about City policies and permits. These boards and committees include the following: Plan Commission, Committee of the Whole, Financial and Judicial Committee, Municipal Services and Utilities Committee, Legislative and Regulatory Committee, Human Resources Committee, and Public Safety Committee. Plan Commission meetings are regularly held the first and third Thursdays of the month at 6:00 p.m. The other committee meetings are scheduled as needed.

The city attorney is responsible for providing legal advice to the City and Common Council on a broad range of issues, including City Code interpretation, ordinance drafting, real estate transactions, contract drafting and interpretation, land use, and zoning. The city attorney also represents the City in prosecutions in front of the Elkhorn Municipal Court. The City uses separate legal counsel for personnel matters and bond issuances.

## **SCOPE OF SERVICES**

The City of Elkhorn is requesting proposals from qualified, licensed attorneys or legal firms to serve in the position of city attorney. The services under the proposed contract would start on or about August 1, 2024, and would include, but not be limited to, the services listed below.

1. Attendance at regularly scheduled evening meetings of the Common Council and Plan Commission
2. Attendance at periodically scheduled meetings of the Board of Zoning Appeals, Board of Review, Council committees, and other bodies, as required
3. Preparing legal opinions for the mayor, Common Council, city administrator and authorized City employees on matters involving City business
4. Ensuring the constitutionality of City ordinances as they relate to existing laws (or changes in law) at both the state and federal levels, and initiating ordinance amendments as needed
5. Reviewing and drafting contracts, resolutions, and ordinances
6. Reviewing and revising development agreements, purchase agreements, and other necessary documentation for land sales
7. Reviewing and drafting easements
8. Advising on zoning and land use matters, including land divisions, condemnations, and annexations
9. Reviewing notices of claims against the City and advising the City in response to litigation
10. Advising on the issuance and administration of liquor licenses and other City permits and licenses
11. Providing guidance to the Common Council and City employees on Wisconsin's open meeting laws, Wisconsin's public records laws, and ethics laws
12. Representing the City on matters before the Public Service Commission and Department of Natural Resources; and
13. Providing such other services as needed by the City

For additional information about the duties of the city attorney, please review the Elkhorn City Code at

[https://library.municode.com/wi/elkhorn/codes/code\\_of\\_ordinances](https://library.municode.com/wi/elkhorn/codes/code_of_ordinances) .

### **Special Considerations re Scope of Services**

1. Labor and employment matters, employee grievances, and disciplinary hearings are handled by separate, specialized labor counsel and are not part of this RFP. There may be, however, from time to time, matters pertaining to labor and/or personnel that will require coordination between the city attorney and the City's personnel attorney.

2. Historically the prosecution of routine ordinance violations, traffic matters, and DUIs in the Elkhorn Municipal Court have been handled by the city attorney. The Municipal Court is located at the Walworth County Government Center, which is located at 100 W. Walworth Street, Elkhorn, Wisconsin. Hearings are usually held the third Wednesday of the month.

### **City Administration Building Office Hours**

The city attorney is not expected to maintain scheduled office hours at the City Administration Building. The city attorney may be asked to attend meetings at the City Administration Building outside of Common Council and committee/board meetings, but the city attorney may perform the majority of his/her work at the attorney's normal business office.

## **PROPOSALS**

### **Proposals Response Format**

Proposals shall be prepared simply and economically, providing a straightforward, concise description of the proposing attorney's or attorneys' capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content and cost effectiveness of the proposal. As such, the City will accept proposals containing both technical and price proposal information in a single document submission. Accordingly, proposals should include the following:

1. A summary cover letter
2. Hourly cost for services, as well as other itemized billing that the City would expect to incur or be responsible for

3. Personal resume of the applicant and any associate(s) who may perform the duties of the city attorney. The resume shall include formal education and specialized training, professional experience (private, as well as municipal), involvement in community and professional associations, memberships held, and professional awards or recognitions received.
4. Summary of recent, relevant practice in the area of municipal law, such as drafting and interpreting ordinances or prosecuting ordinance violations; recodification; tax incremental financing; impact fees; development agreements; special assessments; real estate, easement or right-of-way acquisition/disposition; litigation; workers' compensation; and other experience common to municipal government
5. List of references of other municipal clients
6. Statement of personal philosophy on how the legal affairs of a municipality should be handled, responses to City officials' inquiries
7. Statement of how conflicts of interest or conflicts of time between private clients and the City will be dealt with
8. Any other information a proposer may wish to present in support of an application

### **Proposal Submissions**

To be considered, **proposals must be received by the city administrator no later than June 3, 2024 at 8:00 a.m. Proposals may be mailed or delivered electronically.** Proposals delivered or received after the submittal deadline will be deemed late and rejected. There are no exceptions to this requirement.

If submitting a proposal by mail, the proposal must be placed in a sealed envelope, plainly marked "Sealed Proposal for City Attorney Services" and addressed to the following:

Adam Swann  
City Administrator  
311 Seymour Ct.  
Elkhorn, WI 53121

If submitting a proposal electronically, please send it to Adam Swann, City Administrator, at [aswann@cityofelkhorn.org](mailto:aswann@cityofelkhorn.org).

## **Proposal Evaluation Schedule**

The following chart shows the anticipated schedule of events for submitting and evaluating proposals. This schedule is subject to change based on the City's needs and best interests.

City issues Request for Proposals	May 7
Deadline for submission of questions related to RFP	May 24
Deadline for submission of proposals	June 3 at 8:00 a.m.
Interviews of selected candidates	Week of June 10-14
Potential action by mayor to appoint city attorney, with confirmation by Common Council	June 17
Potential Common Council action to finalize a contract with new city attorney	July 2 or July 15

## **City's Rights and Options**

During the evaluation process, the City reserves the right to request additional information or clarifications from proposers, or to allow corrections of errors or omissions. At the discretion of the City, contractors submitting proposals may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposal is selected. Submission of a proposal indicates acceptance by the attorney or firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City and the city attorney selected.

The City of Elkhorn reserves the right to reject any and all submittals, waive any irregularities, reissue all or part of this Request for Proposals, and not award any contract, all at its discretion and without penalty.

It is anticipated that the selection and contract negotiation with the city attorney will be completed by July 15, 2024.



**CITY OF ELKHORN  
RESOLUTION NO. 24-12**

**A RESOLUTION AUTHORIZING AN INTERFUND LOAN  
FROM THE CITY ELECTRIC FUND TO TAX INCREMENTAL DISTRICT #4**

**WHEREAS**, Tax Incremental District #4 (TID 4) was created in the City on July 10, 2017;  
and

**WHEREAS**, after the creation of TID 4, the City issued debt for the benefit of TID 4 totaling \$5,500,759 (via G.O. Bonds Series 2018A and 2018B); and

**WHEREAS**, since the creation of TID 4, the increment generated by TID 4 has not been sufficient to cover the annual debt service on the bonds; and

**WHEREAS**, during this time, the Electric Fund has lent money to TID 4 to help cover the shortfall; and

**WHEREAS**, the Electric Fund has previously charged TID 4 interest at the annual rate of 3.82% for the use of these funds (which is equal to the average rate paid by TID 4 for debt service); and

**WHEREAS**, for 2024 the total debt service due on the bonds is \$420,995.00, but the taxes generated in the TID based on the 2023 assessment is \$213,850.33, leaving a shortfall of \$207,144.67; and

**WHEREAS**, TID 4 has no other means of obtaining the revenues needed to make these payments in 2024.

**NOW, THEREFORE, THE FOLLOWING IS HEREBY RESOLVED** by the Common Council of the City of Elkhorn, Walworth County, Wisconsin:

1. The City of Elkhorn Electric Fund will advance the sum of \$207,144.67 to the City's Tax Incremental District #4 in 2024 for the purpose of making principal and interest payments on the debt issued for the TID.
2. The funds advanced by the Electric Fund to TID 4 will be charged an annual interest rate of 3.82%.
3. The advance and accrued interest will be repaid by TID 4 to the Electric Fund as soon as the annual increment amount exceeds the funds needed for annual debt principal and interest payments plus administrative expenses.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Tim Shiroda, Mayor

ATTEST:

\_\_\_\_\_  
Lacey L. Reynolds, City Clerk

## PLAN COMMISSION – FINDING OF FACT

DATE: May 3, 2024  
PROJECT: Ricardo Angeles, Ricky's Place Restaurant- Outdoor dining  
PC ID: E24.03.005  
ACTION: Conditional Use Permit

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The City of Elkhorn Plan Commission officially convened on April 18, 2024, to consider the Conditional Use Permit application submitted by Ricardo Angeles, Ricky's Place Restaurant for outdoor dining.

After considering the Conditional Use Permit application, the staff report, oral and written testimony, the Elkhorn 2040 Comprehensive Development Plan, the Zoning on the subject property, and other materials presented at the meeting, the Plan Commission does hereby make the following "finding of fact":

### FINDING OF FACT

- 1) The construction, maintenance, and operation of a restaurant with outside dining on the subject property, if properly conditioned, are in accordance with the intent and purpose of Chapter 17 (Zoning) of the City of Elkhorn Municipal Code.
- 2) The construction, maintenance, and operation of a restaurant with outside dining on the subject property, if properly conditioned, are compatible with other uses permitted in the same zone or vicinity.
- 3) The construction, maintenance, and operation of a restaurant with outside dining on the subject property, if properly conditioned, will not be hazardous, harmful, offensive, or otherwise adverse to the environment.
- 4) The construction, maintenance, and operation of a restaurant with outside dining on the subject property, if properly conditioned, will not be detrimental to the value of the neighborhood or community.

Based upon the "Findings of Fact", the Plan Commission motioned, seconded, and voted to recommend **APPROVAL** of the Conditional Use Permit application to the Common Council.

**CITY OF ELKHORN  
CONDITIONAL USE PERMIT No. 24-04**

RICARDO ANGELES, RICKY'S PLACE RESTUARANT, LLC – 1 N LINCOLN STREET

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Pursuant to Section 17.5-1 of the City of Elkhorn Municipal Code, "Outdoor dining" located at 1 N Lincoln Street, Tax Key Parcel YRW 00022A, shall be permitted as a Conditional Use. The operation at said location shall be subject to the following conditions:

1. The project shall be developed in accordance with the plan of operations. Any deviation from the approved plans shall require zoning administrator and/or Plan Commission approval.
2. The total number of outdoor tables shall not exceed six (6).
3. The tables and chairs shall not be stored outdoors from November-February.
4. The times of outdoor operation shall be as follows: 10:30am-8:00pm Tuesday-Friday, 8:00am-8:00pm Saturday, and 8:00am-2:00pm Sunday.
5. Fencing material and height shall be approved by the zoning administrator.
6. Outdoor seating shall never obstruct public sidewalks or pedestrian access.

Failure to fully comply with the above stated conditions shall be considered grounds for revocation of this permit.

Common Council of the City of Elkhorn

By: \_\_\_\_\_  
Tim Shiroda, Mayor

Attest: \_\_\_\_\_  
Lacey L. Reynolds, City Clerk

State of Wisconsin  
County of Walworth  
Subscribed and sworn/affirmed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

State of Wisconsin  
County of Walworth  
Subscribed and sworn/affirmed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_  
Owner  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Tenant  
\_\_\_\_\_  
Printed Name

State of Wisconsin  
County of Walworth  
Subscribed and sworn/affirmed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

State of Wisconsin  
County of Walworth  
Subscribed and sworn/affirmed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

This instrument was drafted by:  
Allison Schwark, Zoning Administrator

# No Mow May is approaching. See if your Fox Valley community is participating this year.

*The conservation initiative started four years ago in Appleton and has taken root across the nation.*



**Sophia Voight**

Appleton Post-Crescent

0:42

1:43

APPLETON - Four years ago, Appleton became the first U.S. city to adopt "No Mow May," an initiative that postpones mowing lawns to enhance urban habitats for bees and other pollinators.

Now in its fourth year, the initiative, which temporarily suspends enforcement of lawn mowing ordinances for the month of May, has spread to cities across the nation.

While its popularity has taken root across the state, there are still many municipalities where residents will get a visit from the lawn police if their grass grows too tall. To make sure you're in the clear to let your lawn grow, The Post-Crescent compiled a list of Fox Valley municipalities where residents can participate in No Mow May and similar initiatives.

**Instead of lawnmowers, try goats:** Goats with a big appetite are fighting Wisconsin's invasive plants one bite at a time

## Appleton continues its No Mow May tradition



As the progenitor of No Mow May, the initiative has become a permanent fixture of the city's environmental efforts.

In Appleton, residents are exempt from the city's ordinance that restricts the height of grass and weeds to 8 inches on developed lots for the month of May.

The program is voluntary, and residents are not required to sign up with the city if they wish to participate.

## **Hortonville municipal lawns participate in No Mow May, too**

Like Appleton, Hortonville suspends its tall grass and noxious weed ordinance for May to allow residents to grow out their lawns.

The village also participates in the annual tradition on all village properties, according to Public Works Department Director Aaron Steber.

No Mow May signs are available at the village office if participants wish to place them in their yards.

## **Oshkosh requires homeowners to register for No Mow May**



Participation in No Mow May is free and voluntary, but Oshkosh homeowners who wish to let their grass run wild for the month must register on the city’s website through the “Hot Topics” section or via the Connect Oshkosh app for mobile devices.

## **Kaukauna's Slow-Mow Summer expands beyond May**

Last year, Kaukauna began taking a different, broader approach toward promoting pollinator-friendly habitats in the city year-long.

Slow-Mow Summer differs from the traditional No Mow May as it still requires property owners to mow their lawns but asks them to let their grass grow a little longer before mowing throughout the spring and summer before cutting it back.

In addition to less mowing, the initiative also encourages people to eliminate or reduce pesticide use, plant native plants and not clear out plants that are done growing or fallen leaves out of garden beds in the fall.

## **Menasha opts for a low mow May**

In a compromise to No Mow May, last year the Menasha Sustainability Committee encouraged residents to try Low Mow May instead.

Under Low Mow May, residents are still required to keep their lawns under the eight-inch yard ordinance but are encouraged to mow less often.

The city encourages residents to raise the blades on their mowers to four inches and mow once their grass reaches six inches.

*Duke Behnke contributed to this report.*

*Sophia Voight covers local government and politics in the Fox Valley for The Post-Crescent. She can be reached with feedback and story tips at [svoight@postcrescent.com](mailto:svoight@postcrescent.com)*



[https://www.hngnews.com/waunakee\\_tribune/news/waunakee-village-board-rescinds-no-mow-may-ordinance/article\\_957fee9e-93a7-11ee-98d3-abadfd801c82.html](https://www.hngnews.com/waunakee_tribune/news/waunakee-village-board-rescinds-no-mow-may-ordinance/article_957fee9e-93a7-11ee-98d3-abadfd801c82.html)

FEATURED

## Waunakee Village Board rescinds 'No Mow May' ordinance

ETHAN FERRELL [ethan.ferrell@apg-sw.com](mailto:ethan.ferrell@apg-sw.com)

Dec 6, 2023

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No Mow May began in Waunakee during the spring of 2022. Beginning in 2024, residents will no longer be allowed to let their lawns grow freely due to increased pushback against the efficacy of the initiative.

Roberta Baumann

After allowing residents to practice “No Mow May” for the first time in 2022, the Waunakee Village Board has voted to rescind the change for 2024.

No Mow May is an initiative that has gained traction within local governments over recent years. It allows and encourages residents to abstain from mowing their lawns for the entire month of May. By doing so, municipalities hope to promote a more



hospitable habitat for natural pollinators, like bees.

“My take on it (‘No Mow May’) is that it is well intentioned, but it’s probably having little impact,” said UW-Madison Professor Emeritus Dave Hogg.

Waunakee board members invited Hogg to their Monday, Nov. 6, meeting to give them his expert opinion on the matter. He stated that No Mow May initially began with a paper that was published by two professors at Lawrence University in Appleton. Subsequently, the city was the first in the county to adopt the policy.

Since then research disputing the impact of No Mow May has continued to be released. The original paper published at Lawrence has been rescinded after peer reviews disputed the extent of its conclusions.

Hogg said that the original intention of No Mow May was to promote growth of ground-nesting bee populations, not honey or bumble bees. He also stated that the typical vegetation in a midwestern lawn is not necessarily beneficial for pollinators. What they truly need are flowers like dandelions or white clover, not long grass.

As he answered questions, Hogg also mentioned that abruptly cutting one’s lawn at the end of May could potentially cause more harm to insect populations than a month of overgrowth can outweigh.

During this meeting, trustees began to entertain the possibility of allowing bee keeping in the village. Hogg, a bee keeper himself, supported this idea.

After roughly a month of discussion regarding this topic, the village board voted 6-1 to rescind the No Mow May exemption in its code of ordinances on Wednesday, Nov. 20. Trustee Nila Frye was the original trustee who brought this issue to the board's attention.

The singular nay vote for this change came from trustee Joe Zitzelsberger.

“We put No Mow May in, we didn't force anyone to do it. By taking it away, we're forcing them not to,” said trustee Zitzelsberger, “Purely because of that I can't support getting rid of it.”



Because of the change, residents once again run the risk of being cited for a public nuisance if they let their lawns grow over eight inches at any point in time.

[MORE INFORMATION](#)

