

BRUNSWICK CITY SAFETY & ENVIRONMENT COMMITTEE

Agenda

SEPTEMBER 11, 2023

5:20 PM

1. Discussion Items
 - (a) SPIDR Tech Notification System
 - (b) **ORD. NO. 64-2023** - An emergency ordinance establishing Chapter 446 of the City of Brunswick Codified Ordinances to regulate Unmanned Aircraft Systems - **1st Reading** (To be brought from Safety & Environment Committee, *Administration/Brian Ohlin*)
 - (c) **RES. NO. 71-2023** - An emergency resolution authorizing the City Manager to execute all necessary documents to accept a Safety Intervention Grant from the Bureau of Workers' Compensation for the Division of Fire. - **1st Reading** (To be brought from Safety & Environment Committee, *Administration/Greg Glauner*)
2. General Discussion
3. Adjournment

PROPOSED LEGISLATION



DATE: 9/11/2023

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Brian Ohlin

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 64-2023** - An emergency ordinance establishing Chapter 446 of the City of Brunswick Codified Ordinances to regulate Unmanned Aircraft Systems - **1st Reading** (To be brought from Safety & Environment Committee, *Administration/Brian Ohlin*)

BACKGROUND: The city has been receiving complaints from residents about the use of unmanned aircraft systems (UAS) in residential areas that are potential violations of local ordinances regarding trespassing, noise disturbances, voyeurism, and harassment.

PURPOSE AND EXPLANATION: The City has received numerous complaints from residents about unmanned aircraft systems (UAS), commonly known as drones, being flown in residential areas and possibly violating sections of our General Offense Code. It is the recommendation of the City Manager/Safety Director and Law Director that the launch or operation of UAS are prohibited to be utilized in a manner that violates the General Offense Code, including, without limitation, noise disturbances, trespass, voyeurism, and harassment.

IMPLEMENTATION SCHEDULE:

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

An emergency with suspension of the rules is recommended as complaints of this nature are ongoing and a solution is needed as soon as possible.

**ADDITIONAL
INFORMATION:**

1
CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 64-2023

BY: Mr. Kuczma, Mr. Delsanter, and Mrs. Piper

AN EMERGENCY ORDINANCE ESTABLISHING CHAPTER 446 OF THE CITY OF BRUNSWICK CODIFIED ORDINANCES TO REGULATE UNMANNED AIRCRAFT SYSTEMS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Chapter 446 of the Codified Ordinances titled “Unmanned Aircraft Systems” is hereby established to read as follows:

“446.01 Definitions.

As used in this Chapter, certain words and terms are defined as follows:

- (a) “Unmanned Aircraft” means an aircraft operated without the possibility of direct human intervention from within or on the aircraft, weighing more than fifty-five hundredths (0.55) pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.
- (b) “Unmanned Aircraft System” or “UAS” means an unmanned aircraft and its associated elements (including communication links and the components that control the unmanned aircraft) that are required for the safe and efficient operation of the unmanned aircraft in the National Airspace System.

446.02 Purpose and Intent.

This Chapter is intended to promote public safety. In consideration of this concern, the City is restricting the use of UAS in certain areas. It is not intended to restrict legitimate hobbyists operating unmanned aircraft systems in compliance with Federal Aviation Administration rules and regulations. This Chapter is not intended to preempt Federal Aviation Administration rules and regulations, but to operate in conjunction with those rules to promote public safety while recognizing the limitations in the Federal Aviation Administration’s enforcement capabilities.

446.03 Restrictions.

- (a) Anyone who launches, operates, or causes to be launched or operated, any unmanned aircraft system within the limits of the City must be able to present, immediately upon request by any member of the Division of Police or Division of Fire, a current certificate of aircraft registration issued by the Federal Aviation Administration for the unmanned aircraft system.
- (b) No person shall launch, operate, or cause to be launched or operated, any unmanned aircraft system in any airspace within or over any area of the City

that the Federal Aviation Administration determines to be a restricted area, either by way of a Notice to Airmen (NOTAM), Temporary Flight Restriction, No Drone Zone, or other means.

- (c) Division (b) of this Section shall not apply to any person who has previous approval from the Federal Aviation Administration to operate an unmanned aircraft system in a restricted area and is complying with all terms and conditions of such approval.
- (d) No person shall launch, operate, or cause to be launched or operated, any unmanned aircraft system in any airspace within or over any area of the City that violates any provision of the General Offenses Code of the City.

446.04 Penalty.

- (a) Whoever violates division (a) of Section 446.03 of this Chapter is guilty of a minor misdemeanor.
- (b) Whoever violates division (b) of Section 446.03 of this Chapter is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the second degree on the third and any subsequent offense.
- (c) Whoever violates division (d) of Section 446.03 of this Chapter is guilty of an offense and subject to a penalty as detailed in the General Offenses Code of the City.
- (d) All violations will be forwarded to the Federal Aviation Administration and reviewed for possible violations of federal civil and criminal statutes.”

SECTION 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the additional reason that it is necessary to immediately update the Codified Ordinances to address unmanned aircraft systems. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____

Rules Suspended: AYES _____ NAYS _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
 Clerk of Council
 Laura E. Timura

CHAPTER 490 – UNMANNED AIRCRAFT SYSTEMS

490.01 Definitions

490.02 Purpose and Intent

490.03 Restrictions

490.99 Violation; Penalties

§ 490.01 Definitions

As used in this chapter, certain words and terms are defined as follows:

(a) "Unmanned Aircraft" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft, weighing more than fifty-five hundredths (0.55) pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

(b) "Unmanned Aircraft System" or "UAS" means an unmanned aircraft and its associated elements (including communication links and the components that control the unmanned aircraft) that are required for the safe and efficient operation of the unmanned aircraft in the National Airspace System.

(Ord. No. 330-16. Passed 4-25-16, eff. 4-27-16)

§ 490.02 Purpose and Intent

This chapter is intended to promote public safety. In consideration of this concern, the city is restricting the use of UAS in certain areas. It is not intended to restrict legitimate hobbyists operating unmanned aircraft systems in compliance with FAA rules and regulations. This chapter is not intended to preempt FAA rules and regulations, but to operate in conjunction with those rules to promote public safety while recognizing the limitations in the FAA's enforcement capabilities.

(Ord. No. 330-16. Passed 4-25-16, eff. 4-27-16)

§ 490.03 Restrictions

(a) Anyone who launches, operates, or causes to be launched or operated, any unmanned aircraft system within the limits of Cleveland, Ohio, must be able to present, immediately upon request by any member of the police or fire force, a current certificate of aircraft registration issued by the Federal Aviation Administration for the unmanned aircraft system.

(b) No person shall launch, operate, or cause to be launched or operated, any unmanned aircraft system in any airspace within or over:

(1) A five (5) mile radius of Cleveland Hopkins International Airport;

(2) A five (5) mile radius of Burke Lakefront Airport; or

(3) Any area of the City of Cleveland that the Federal Aviation Administration determines to be a restricted area, either by way of a Notice to Airmen (NOTAM), Temporary Flight Restriction, No Drone Zone, or other means.

(c) Division (b) of this section shall not apply to any person who has previous approval from the Federal Aviation Administration to operate a UAS in a restricted area and is complying with all terms and conditions of their approval.

(Ord. No. 330-16. Passed 4-25-16, eff. 4-27-16)

§ 490.99 Violation; Penalties

Whoever violates division (a) of Section 490.03 of this chapter is guilty of a minor misdemeanor. Whoever violates division (b) of Section 490.03 of this chapter is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the second degree on the third and any subsequent offense. All violations will be forwarded to the Federal Aviation Administration and reviewed for possible violations of federal civil and criminal statutes. The Department of Public Safety will enforce and ensure compliance with the provisions of this chapter.

(Ord. No. 330-16. Passed 4-25-16, eff. 4-27-16)

State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet

Federal Aviation Administration
Office of the Chief Counsel

December 17, 2015

BACKGROUND

Unmanned aircraft systems (UAS) are aircraft subject to regulation by the FAA to ensure safety of flight, and safety of people and property on the ground. States and local jurisdictions are increasingly exploring regulation of UAS or proceeding to enact legislation relating to UAS operations. In 2015, approximately 45 states have considered restrictions on UAS. In addition, public comments on the Federal Aviation Administration's (FAA) proposed rule, "Operation and Certification of Small Unmanned Aircraft Systems" (Docket No. FAA-2015-0150), expressed concern about the possible impact of state and local laws on UAS operations.

Incidents involving unauthorized and unsafe use of small, remote-controlled aircraft have risen dramatically. Pilot reports of interactions with suspected unmanned aircraft have increased from 238 sightings in all of 2014 to 780 through August of this year. During this past summer, the presence of multiple UAS in the vicinity of wild fires in the western U.S. prompted firefighters to ground their aircraft on several occasions.

This fact sheet is intended to provide basic information about the federal regulatory framework for use by states and localities when considering laws affecting UAS. State and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework pertaining to control of the airspace, flight management and efficiency, air traffic control, aviation safety, navigational facilities, and the regulation of aircraft noise at its source.

Presented below are general principles of federal law as they relate to aviation safety, and examples of state and local laws that should be carefully considered prior to any legislative action to ensure that they are consistent with applicable federal safety regulations. The FAA's Office of the Chief Counsel is available for consultation on specific questions.

WHY THE FEDERAL FRAMEWORK

Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735. Congress has directed the FAA to "develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace." 49 U.S.C. § 40103(b)(1). Congress has further directed the FAA to "prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes)" for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable

airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects. 49 U.S.C. § 40103(b)(2).

A consistent regulatory system for aircraft and use of airspace has the broader effect of ensuring the highest level of safety for all aviation operations. To ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions, FAA has regulatory authority over matters pertaining to aviation safety.

REGULATING UAS OPERATIONS

In § 333 of the FAA Modernization and Reform Act of 2012 (Public Law No. 112-95), Congress directed the Secretary to determine whether UAS operations posing the least amount of public risk and no threat to national security could safely be operated in the national airspace system (NAS) and if so, to establish requirements for the safe operation of these systems in the NAS.

On February 15, 2015, the FAA proposed a framework of regulations that would allow routine commercial use of certain small UAS in today's aviation system, while maintaining flexibility to accommodate future technological innovations. The FAA's Notice of Proposed Rulemaking offered safety rules for small UAS (under 55 pounds) conducting non-recreational or non-hobby operations. The proposed rule defines permissible hours of flight, line-of-sight observation, altitude, operator certification, optional use of visual observers, aircraft registration and marking, and operational limits.

Consistent with its statutory authority, the FAA is requiring Federal registration of UAS in order to operate a UAS. Registering UAS will help protect public safety in the air and on the ground, aid the FAA in the enforcement of safety-related requirements for the operation of UAS, and build a culture of accountability and responsibility among users operating in U.S. airspace. No state or local UAS registration law may relieve a UAS owner or operator from complying with the Federal UAS registration requirements. Because Federal registration is the exclusive means for registering UAS for purposes of operating an aircraft in navigable airspace, no state or local government may impose an additional registration requirement on the operation of UAS in navigable airspace without first obtaining FAA approval.

Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating UAS in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this 'patchwork quilt' of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system. See *Montalvo v. Spirit Airlines*, 508 F.3d 464 (9th Cir. 2007), and *French v. Pan Am Express, Inc.*, 869 F.2d 1 (1st Cir. 1989); see also *Arizona v. U.S.*, 567 U.S. ___, 132 S.Ct. 2492, 2502 (2012) ("Where Congress occupies an entire field . . . even complimentary state regulation is impermissible. Field preemption reflects a congressional decision to foreclose any

state regulation in the area, even if it is parallel to federal standards.”), and *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 386-87 (1992).

EXAMPLES OF STATE AND LOCAL LAWS FOR WHICH CONSULTATION WITH THE FAA IS RECOMMENDED

- Operational UAS restrictions on flight altitude, flight paths; operational bans; any regulation of the navigable airspace. For example – a city ordinance banning anyone from operating UAS within the city limits, within the airspace of the city, or within certain distances of landmarks. Federal courts strictly scrutinize state and local regulation of overflight. *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973); *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1117 (9th Cir. 2002); *American Airlines v. Town of Hempstead*, 398 F.2d 369 (2d Cir. 1968); *American Airlines v. City of Audubon Park*, 407 F.2d 1306 (6th Cir. 1969).
- Mandating equipment or training for UAS related to aviation safety such as geo-fencing would likely be preempted. Courts have found that state regulation pertaining to mandatory training and equipment requirements related to aviation safety is not consistent with the federal regulatory framework. *Med-Trans Corp. v. Benton*, 581 F. Supp. 2d 721, 740 (E.D.N.C. 2008); *Air Evac EMS, Inc. v. Robinson*, 486 F. Supp. 2d 713, 722 (M.D. Tenn. 2007).

EXAMPLES OF STATE AND LOCAL LAWS WITHIN STATE AND LOCAL GOVERNMENT POLICE POWER

Laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation. *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002). Examples include:

- Requirement for police to obtain a warrant prior to using a UAS for surveillance.
- Specifying that UAS may not be used for voyeurism.
- Prohibitions on using UAS for hunting or fishing, or to interfere with or harass an individual who is hunting or fishing.
- Prohibitions on attaching firearms or similar weapons to UAS.

CONTACT INFORMATION FOR QUESTIONS

The FAA’s Office of the Chief Counsel is available to answer questions about the principles set forth in this fact sheet and to consult with you about the intersection of federal, state, and local regulation of aviation, generally, and UAS operations, specifically. You may contact the Office of Chief Counsel in Washington, D.C. or any of the following Regional Counsels:

FAA Office of the Chief Counsel
Regulations Division (AGC-200)
800 Independence Ave. SW
Washington, DC 20591
(202) 267-3073

Central Region
Office of the Regional Counsel
901 Locust St., Room 506
Kansas City, MO 64406-2641
(816) 329-3760
(IA, KS, MO, NE)

Great Lakes Region
Office of the Regional Counsel
O'Hare Lake Office Center
2300 East Devon Ave.
Des Plaines, IL 60018
(847) 294-7313
(IL, IN, MI, MN, ND, OH, SD, WI)

Northwest Mountain Region
Office of the Regional Counsel
1601 Lind Ave. SW
Renton, WA 98055-4056
(425) 227-2007
(CO, ID, MT, OR, UT, WA, WY)

Southwest Region
Office of the Regional Counsel, 6N-300
10101 Hillwood Parkway Dr.
Fort Worth, TX 76177
(817) 222-5099
(AR, LA, NM, OK, TX)

Alaskan Region
Office of the Regional Counsel
222 West 7th Ave.
Anchorage, AK 99513
(907) 271-5269
(AK)

Eastern Region
Office of the Regional Counsel
1 Aviation Plaza, Room 561
Jamaica, NY 11434-4848
(718) 553-3285
(DC, DE, MD, NJ, NY, PA, VA, WV)

New England Region
Office of the Regional Counsel
12 New England Executive Park
Burlington, MA 01803
(781) 238-7040
(CT, ME, MA, NH, RI, VT)

Southern Region
Office of the Regional Counsel
1701 Columbia Ave., Suite 530
College Park, GA 30337
(404) 305-5200
(AL, FL, GA, KY, MS, NC, SC, TN)

Western-Pacific Region
Office of the Regional Counsel
P.O. Box 92007
Los Angeles, CA 90009
(310) 725-7100
(AZ, CA, HI, NV)

APPENDIX – LIST OF AUTHORITIES

Federal Statutes

- 49 U.S.C. §§ 40103, 44502, and 44701- 44735 (former Federal Aviation Act of 1958, as amended and recodified).
- FAA Modernization and Reform Act of 2012, Public Law No. 112-95 (Feb. 14, 2012), Subtitle B, “Unmanned Aircraft Systems.”

Federal Regulations

- Title 14 of the Code of Federal Regulations, Chapter 1.

The U.S. Supreme Court

- “Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government.” *Northwest Airlines v. State of Minnesota*, 322 U.S. 292, 303 (1944)(Jackson, R., concurring).
- “If we were to uphold the Burbank ordinance [which placed an 11 p.m. to 7 a.m. curfew on jet flights from the Burbank Airport] and a significant number of municipalities followed suit, it is obvious that fractionalized control of the timing of takeoffs and landings would severely limit the flexibility of FAA in controlling air traffic flow. The difficulties of scheduling flights to avoid congestion and the concomitant decrease in safety would be compounded.” *Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 639 (1973).
- “The Federal Aviation Act requires a delicate balance between safety and efficiency, and the protection of persons on the ground ... The interdependence of these factors requires a uniform and exclusive system of federal regulation if the congressional objectives underlying the Federal Aviation Act are to be fulfilled.” *Burbank* at 638-639.
- “The paramount substantive concerns of Congress [in enacting the FAA Act] were to regulate federally all aspects of air safety ... and, once aircraft were in ‘flight,’ airspace management....” *Burbank* at 644 (Rehnquist, J. dissenting).

U.S. Courts of Appeals

- “Air traffic must be regulated at the national level. Without uniform equipment specifications, takeoff and landing rules, and safety standards, it would be impossible to operate a national air transportation system.” *Gustafson v. City of Lake Angeles*, 76 F.3d 778, 792-793 (6th Cir. 1996)(Jones, N., concurring).
- “The purpose, history, and language of the FAA [Act] lead us to conclude that Congress intended to have a single, uniform system for regulating aviation safety. The catalytic events leading to the enactment of the FAA [Act] helped generate this intent. The FAA [Act] was drafted in response to a series of fatal air crashes between civil and military aircraft operating under separate flight rules In discussing the impetus for the FAA [Act], the Supreme Court has also noted that regulating the aviation industry requires a delicate balance between safety and efficiency. It is precisely because of ‘the interdependence of these factors’ that Congress enacted ‘a uniform and exclusive system of federal regulation.’” *Montalvo v. Spirit Airlines*, 508 F.3d 464, 471 (9th Cir. 2007), citing *City of Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 638-39 (1973).
- “[W]hen we look to the historical impetus for the FAA, its legislative history, and the language of the [FAA] Act, it is clear that Congress intended to invest the Administrator of the Federal Aviation Administration with the authority to enact exclusive air safety standards. Moreover, the Administrator has chosen to exercise this authority by issuing such pervasive regulations that we can infer a preemptive intent to displace all state law on the subject of air safety.” *Montalvo* at 472.
- “We similarly hold that federal law occupies the entire field of aviation safety. Congress’ intent to displace state law is implicit in the pervasiveness of the federal regulations, the dominance of the federal interest in this area, and the legislative goal of establishing a single, uniform system of control over air safety. This holding is fully consistent with our decision in *Skysign International, Inc. v. Honolulu*, 276 F.3d 1109 (9th Cir. 2002), where we considered whether federal law preempted state regulation of aerial advertising that was distracting and potentially dangerous to persons on the ground. In upholding the state regulations, we held that federal law has not ‘preempt[ed] altogether any state regulation purporting to reach into the navigable airspace.’ *Skysign* at 1116. While Congress may not have acted to occupy exclusively all of air commerce, it has clearly indicated its intent to be the sole regulator of aviation safety. The FAA, together with federal air safety regulations, establish complete and thorough safety standards for interstate and international air transportation that are not subject to supplementation by, or variation among, states.” *Montalvo* at 473-474.
- “[W]e remark the Supreme Court’s reasoning regarding the need for uniformity [concerning] the regulation of aviation noise, see *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973), and suggest that the same rationale applies here. In *Burbank*, the Court struck down a municipal anti-noise ordinance placing a curfew on jet flights from a regional airport. Citing the ‘pervasive nature of the scheme of federal

regulation,’ the majority ruled that aircraft noise was wholly subject to federal hegemony, thereby preempting state or local enactments in the field. In our view, the pervasiveness of the federal web is as apparent in the matter of pilot qualification as in the matter of aircraft noise. If we upheld the Rhode Island statute as applied to airline pilots, ‘and a significant number of [states] followed suit, it is obvious that fractionalized control ... would severely limit the flexibility of the F.A.A’ [citing *Burbank*] Moreover, a patchwork of state laws in this airspace, some in conflict with each other, would create a crazyquilt effect ... The regulation of interstate flight-and flyers-must of necessity be monolithic. Its very nature permits no other conclusion. In the area of pilot fitness as in the area of aviation noise, the [FAA] Act as we read it ‘leave[s] no room for ... local controls.’ [citing *Burbank*]. *French v. Pan Am Express, Inc.*, 869 F.2d 1, 6 (1st Cir. 1989).

PROPOSED LEGISLATION



DATE: 9/11/2023

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Greg Glauner

COPY: Mayor Ron Falconi

LEGISLATION: **RES. NO. 71-2023** - An emergency resolution authorizing the City Manager to execute all necessary documents to accept a Safety Intervention Grant from the Bureau of Workers' Compensation for the Division of Fire. - **1st Reading** (To be brought from Safety & Environment Committee, *Administration/Greg Glauner*)

BACKGROUND: The City of Brunswick, Division of Fire has been awarded a safety grant (Incident: 230531-000004) from the Ohio Bureau of Workers' Compensation in the amount of \$29,619.33. There is a 25% contribution match required from the City of Brunswick in the amount of \$9,873.11. The grant is intended to purchase two LUCAS Chest Compression Systems. This is a life-saving device utilized to perform automatic chest compressions when medical professionals are treating a patient in full-arrest. Presently, the Division of Fire is in possession of two such devices. This leaves the other two Medic Units without a device and therefore, when the units are called into service, Fire Medics perform manual compressions on a patient. This is less effective and prevents personnel from performing other life-saving measures.

PURPOSE AND EXPLANATION: The LUCAS Chest Compression System is a life-saving device utilized to perform automatic chest compressions when medical professionals are treating a patient in full-arrest. Presently, the Division of Fire is in possession of two such devices. This leaves the other two Medic Units without a device and therefore, when the units are called into service, Fire Medics perform manual compressions on a patient. This is less effective and prevents personnel from performing other life-saving measures.

IMPLEMENTATION SCHEDULE: Once awarded and funding is put into place, the equipment will be immediately ordered and placed into service in the Division's Medic units upon receipt.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY: The City of Brunswick's Division of Fire has been awarded a safety grant (Incident:

230531-000004) from the Ohio Bureau of Workers' Compensation. 75% of the eligible grant expenses (up to the \$29,619.33 BWC grant portion) will be posted to account#952-0510-56270. The City's 25% contribution match of \$9,873.11 in eligible expenses will be posted to account#952-0510-56256.

**RECOMMENDED
ACTION:**

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

Once approved, the Division of Fire may immediately place an order for the LUCAS Chest Compression System and the Ohio Bureau of Workers' Compensation will reimburse the City of Brunswick for the expenditure. As this is a life-saving device, and time is of the essence, this is the most expedient way to place these devices into service on our Medic Units.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
RESOLUTION NO. 71-2023

BY: Mr. Kuczma, Mr. Delsanter, Mrs. Piper

AN EMERGENCY RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE ALL NECESSARY DOCUMENTS TO ACCEPT A SAFETY
INTERVENTION GRANT FROM THE BUREAU OF WORKERS'
COMPENSATION FOR THE DIVISION OF FIRE.

WHEREAS: The Division of Fire has applied for and been approved for a Safety Intervention Grant from the Bureau of Workers' Compensation in the amount of \$29,619.33 (the "Grant") for the purchase of two (2) Lucas Chest Compression Systems, which equipment must be purchased within ninety (90) days of receipt of the Grant; and

WHEREAS: The local cost share to the City pursuant to the terms of the Grant is \$9,873.11.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:

SECTION 1: The City Manager is hereby authorized, upon approval of the Law Director, to execute all necessary documents to accept the Grant.

SECTION 2: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety or welfare, and for the additional reason that immediate passage is necessary to comply with the terms of the Grant. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____

Rules Suspended: AYES _____ NAYS _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura



**Bureau of Workers'
Compensation**

Division of Safety & Hygiene
30 W. Spring St., 25th Floor
Columbus, OH 43215-2256

Governor **Mike DeWine**
Administrator/CEO **John Logue**

www.bwc.ohio.gov
1-800-644-6292
Fax: 1-866-336-8352

Policy number:

Application number:

**** Please DO NOT STRAY FROM THE BUDGET**, be advised that you may not use grant money for safety intervention equipment that has already been purchased. This includes any or all of the following procurement activities: Ordered equipment; Received equipment; Received paid equipment. If you make the purchase/payment prior to receipt of this letter, BWC will consider the purchase retroactive and BWC may request return of the funds.

You must complete the action steps as listed below. All of them should be completed within the BWC Grant Management Portal:

- Within 90 days after the grant check or EFT, purchase and implement the approved intervention equipment/services.
- Within 120 days after the grant check or EFT, submit proof of spending and purchase documentation for all approved equipment/services.
- Within one year after the equipment is placed into service, complete the required case study.

Lastly, please ensure that when submitting your proof of spending and proof of payment documentation that your invoice is exact to the quote previously submitted. Including items that were not pre-approved in this grant or significantly changing their descriptions could delay the reconciliation process.

If you have any questions or concerns, please contact Safety Grants via The Ohio BWC Grant Management Portal. Thank you for taking the initiative to provide a safe work environment for your employees.

Sincerely,

Superintendent, Division of Safety & Hygiene

Enclosure

cc: BWC Finance Division



Section V: Budget

Step 1: Please provide the proposed budget for the project.

Note: You may only use the safety intervention grant to purchase ergonomic, safety or industrial hygiene equipment. You may not use the safety intervention grant for recouping the cost of any prior or ongoing interventions, or for rented or leased equipment. In addition, you may not use a safety intervention grant to pay for salaries, wages, internal labor, or any costs associated with preparing the application. You must make all grant purchases and implement the intervention equipment within ninety (90) days after the date on the BWC grant check or the electronic funds transfer. Note all itemized expenses associated with the project. Indicate exact costs and do not round figures. All budgets MUST have vendor price quotes attached for each individual item. You must subtract all discounts and equipment trade-ins from the project total.

Item	Quantity	Cost	Total
Lucas 3 chest compression system	2	\$17,212.90	\$34,425.80
Lucas Desk-Top battery charger	2	\$1,166.25	\$2,332.50
Lucas external power supply	2	\$369.00	\$738.00
Lucas 3 battery- dark grey- Rechargeable LiPo	2	\$693.75	\$1,387.50

Subtotal

Freight

Tax

Less all discounts and trade-in amounts.

Total budget

Step 2: To determine the grant amount you are requesting, please complete the formula below.

Total amount of project (from table above) A

Total amount supplied by BWC, (either \$40,000 or less, or remaining funds in eligibility cycle) B = A x 0.75

Total amount supplied by the employer A-B

Do you have ownership, partnership or any other affiliation with the vendor of the equipment being purchased?

If yes, please explain.

Are you planning to finance your portion of the grant project? Yes ☐ No ☐ If yes, you must provide a copy of the loan agreement with your receipt documentation once you receive the grant funds and make your purchase.

By my signature, I agree to fully comply with the terms and conditions of the program and to use all funds solely for the purposes intended. I further understand I may be subject to civil, criminal and/or administrative penalties as the result of any false, fictitious, misleading, or fraudulent statements. I understand if funds are not used, misused, misapplied, or misappropriated, or are used for purchases and/or services not associated with the approved budget and itemized proposal submitted, that I may be subject to civil, criminal, and administrative penalties.

Name of duly authorized representative (please print)

Signature of duly authorized representative

Title

Employer name BWC policy number



Section VI. AGREEMENT between OHIO BUREAU OF WORKERS' COMPENSATION

and _____
Employer's Full Legal Name

Agreement between the Ohio Bureau of Workers' Compensation and Employer

This is an agreement by and between _____ (hereinafter, "Employer"), with its principal place
Employer's Full Legal Name
of business located at _____, Ohio _____, and the State of Ohio, Bureau of Workers' Compensation
Address ZIP code

(hereinafter, "BWC"), having offices at 30 W. Spring St., Columbus, OH 43215-2256, entered into the day, month and year set out below.

Whereas, the administrator of workers' compensation may issue a grant to defray the costs incurred by an employer who elects to participate in the safety intervention grant program, pursuant to Ohio Administrative Code Rule (OAC) 4123-17-56, wherein an employer may receive grant funds for projects which substantially reduce or eliminate the risk of workplace injuries and illnesses.

Therefore, for good and valuable consideration, the sufficiency of which is acknowledged, the parties mutually agree to the following conditions.

Eligibility — Acceptance of Employer into the safety intervention grant program is contingent upon Employer's: (a) submission and approval of an application, (b) demonstrated need for intervention, (c) having active Ohio workers' compensation coverage, and (d) being current with respect to payroll reporting and payments due to any fund administered by BWC as of the date of execution of this agreement and for its duration.

Distribution of Grant Funds — Subject to the conditions precedent in this agreement and subject to available BWC resources, Employer and BWC mutually understand and agree that the total sum of the grant to be issued by BWC shall not exceed a 3-to-1 ratio of the funds contributed by Employer, whether a public or private employer, and that the maximum grant amount shall not exceed \$40,000. Employer must contribute \$13,333.33 in order to receive the maximum grant amount of \$40,000. Employer understands and acknowledges that BWC will not issue a grant matching any expenditures that exceed \$13,333.33. The \$40,000 safety grant is the maximum per eligibility cycle. If Employer has not received the maximum amount of money available through the safety grant program during their eligibility cycle, Employer may reapply and have its application approved to enter into another agreement until Employer has received a total of \$40,000 for that cycle.

Employer Responsibilities — Employer, in consideration of a grant given to it, promises to fully comply with the program requirements as outlined in the Application and Instructions and OAC 4123-17-56, all of which are fully incorporated herein by reference. **Employer will be responsible for using the awarded grant in the manner for which it is intended and will be required to provide BWC with documentation. This documentation may include, but is not limited to, original invoices, canceled checks, and periodic reports to confirm that all funds were spent and applied toward the approved intervention.** Employer understands that approved safety intervention equipment may not be rented or leased. Employer agrees to allow a BWC representative to conduct risk factor assessments. Further, Employer agrees not to eliminate jobs due to participation in the safety intervention grant program.

All interventions must receive approval prior to purchase to qualify for the grant, and any proposed changes must be agreed to by BWC prior to making the change. Employer agrees to allow BWC to publish safety intervention grant results including, but not limited to, data, videos, specifications, or photos for the purposes of illustrating, educating, and training employers and employees.

Time of Performance — Employer must make all equipment purchases and implement the approved intervention equipment within ninety (90) days of BWC issuing the grant check or electronic fund transfer. BWC will consider allowing additional time, up to a maximum of 90 days, upon the request of Employer. However, the extension must be made within the initial 90 day period. No later than thirty (30) days following the 90 day purchase period, Employer must provide BWC the following information: (a) itemized expense report, (b) original paid invoices pertaining to all intervention purposes, and (c) copies of all cancelled checks or other documentation to support that all invoices associated with the interventions were paid in full.

Employer shall provide BWC a one-year case study report which detail the number of affected population and list claim numbers affected by the intervention, if any. The one-year case study is due within 30 days of the reporting period. The one-year case study report is to be completed electronically by Employer. If the one-year case study report is not filed, or if the report is not written as described in the application, Employer shall be liable to repay the full amount of the grant.

Disqualification — If for any reason Employer fails to satisfy one or more of the criteria established in the Application and Instructions, OAC 4123-17-56, and this agreement, including, but not limited to, the requirement of maintaining active coverage, timely payments thereof, and the obligations described in Employer Responsibilities and Time of Performance sections, Employer may be disqualified from the program. **Disqualification will result in the termination of BWC's obligations under this agreement. BWC reserves the right to recover grant funds by one or more of the following methods: billing Employer for the grant funds received, forwarding Employer's information to the Office of the Attorney General of Ohio for collection, set-off, recoupment, or other administrative, civil, or legal remedy.**

If Employer merges or combines its business after receiving a grant, but before completing the one year of measurement reporting, the BWC Successorship Liability Policy will go into effect. Employer is responsible for notifying the successor employer of the obligations under the safety intervention grant program. The successor employer may be liable to repay any and all previously paid grant funds if these obligations are not met.



Disclaimer — If implemented correctly by Employer, the goal of the safety intervention grant program is to substantially reduce or eliminate injury and illness in the workplace and, hence, claims associated with the affected processes. BWC does not guarantee or warrant that the implementation of such a plan will result in a substantial reduction or elimination of injuries and illnesses in the workplace. The exclusive remedy shall be pursuant to workers' compensation laws of the appropriate jurisdiction. In no event, shall BWC be liable for any damages in contract or in tort.

Ohio elections law — Employer hereby certifies that no applicable party listed in Divisions (I), (J), (Y) and (Z) of O.R.C. Section 3517.13 has made contributions in excess of the limitations specified under Divisions (I), (J), (Y) and (Z) of O.R.C. Section 3517.13.

Conflicts of interest and ethics compliance certification — Employer affirms that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict, in any manner or degree, with the performance of services which are required to be performed under any resulting Contract. In addition, Employer affirms that a person who is or may become an agent of Employer, not having such interest upon execution of this Contract shall likewise advise the BWC in the event it acquires such interest during the course of this Contract.

Employer agrees to adhere to all ethics laws contained in Chapters 102 and 2921 of the Ohio Revised Code governing ethical behavior,

understands that such provisions apply to persons doing or seeking to do business with the Bureau, and agrees to act in accordance with the requirements of such provisions. Employer warrants that it has not paid and will not pay, has not given and will not give, any remuneration or thing of value directly or indirectly to the BWC or any of its board members, officers, employees, or agents, or any third party in any of the engagements of this Agreement or otherwise, including, but not limited to a finder's fee, cash solicitation fee, or a fee for consulting, lobbying or otherwise.

Non-Discrimination and Equal Employment Opportunity: Employer will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders. The State encourages Employer to purchase goods and services from Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors.

Authority — The person signing below for Employer states that he or she is either the owner, chief executive officer, chief financial officer, plant manager or other person having fiduciary responsibilities with Employer; and Employer agrees that the signer or his, or her successor, will have the authority to oversee carrying out Employer's responsibilities for one year after BWC issues the funds. The signer's authority shall continue until Employer notifies BWC of the name of the successor.

☐

By initialing this box, Employer agrees that prior purchases have not been made and will not be made prior to approval. Employer also confirms understanding that all grant approved purchases are to be purchased and implemented within 90 days after the date on the BWC grant check or the date of the electronic fund transfer. Additionally, any changes to the original intervention must receive prior approval by BWC.

By my signature, I agree to fully comply with the terms and conditions of this agreement and the program and to use all funds solely for the purposes intended. I further understand I may be subject to civil, criminal and/or administrative penalties as the result of any false, fictitious, misleading, or fraudulent statements. I understand if funds are not used, misused, misapplied, misappropriated, or are used for purchases or services not associated with the approved budget and itemized proposal submitted, that I may be subject to civil, criminal, and administrative penalties.

Modifications: The parties may, in writing and by mutual agreement, amend, modify, supplement or rescind the terms of this agreement.

In witness whereof, the parties hereunto affix their signatures this day of _____, 20_____.
Month Day

Employer's full legal name _____

Federal tax I.D. _____

Title _____

Name (please print) _____

**State of Ohio, Bureau of Workers' Compensation
Safety Intervention Grant Program**

Signature _____

Safety Grant Program

Safety Intervention Grant (SIG) Scoresheet

Employer Name	Policy Number	Application Number	Intervention	Grant Amount	Pass/Fail

Approvals

X

Committee Member 1

X

Committee Member 2

X

Committee Member 3

X

Superintendent