

## Council Meeting Agenda

THURSDAY, OCTOBER 14, 2021  
7:00 PM

IN COUNCIL CHAMBERS  
46 NORTH AVENUE, TALLMADGE, OH

### MEETING PROCEDURES

Public input is invited at the beginning of the meeting to discuss an item not on the agenda, during a public hearing, or in Council Committee Reports to discuss an agenda item. Please wait until you are recognized by the Chair, state your name, and address so that your comments may be properly recorded and limit your remarks to a period of two (2) minutes or less. It is appreciated that anyone wishing to address Council register with the Clerk of Council or through the online form by 3 pm on the day of the meeting.

Written comments may be submitted to Council and should be received by 3 pm on the day of the meeting. All comments will be read into the record. Written comments and participation registration may be submitted via:

1. City's Website (<https://tallmadge-ohio.org/meetingregistration>)
2. Email ([council@tallmadge-ohio.org](mailto:council@tallmadge-ohio.org))
3. Mail (46 North Avenue, Tallmadge, OH 44278)

1. **Call to Order**
2. **Opening Prayer & Pledge of Allegiance**
3. **Roll Call**
4. **Correcting and Adopting the Previous Meeting Minutes**  
9-23-21 Regular Council Meeting minutes.
5. **Financial Reports**

- **Fire & EMS Fund Transfer in the amount of \$75,000 to Council on 9-30-21.**
- **Bond Retirement Transfer in the amount of \$75,000 to Council on 9-30-21.**
- **Street Maintenance & Repair Transfer in the amount of \$100,000 to Council on 9-30-21.**
- **Police Pension Transfer in the amount of \$69,895 to Council on 9-30-21.**
- **Appropriation Report, Fund Report and Revenue Report for the period ending 9-30-21 to Council on 10-6-21.**
- **September Financial Reports to Council on 10-6-21.**
- **Tallmadge Recreation Center Profit and Loss Report for the period ending 9-30-21 to Council on 10-6-21.**
- **Income Tax Comparisons for the period ending 9-30-21 to Council on 10-6-21.**
- **Revenue Comparisons for the period ending 9-30-21 to Council on 10-6-21.**
- **Consolidated Investment Portfolio for the period ending 9-30-21 to Council on 10-6-21.**

6. **Public Hearings:**
7. **Community Input:**
8. **Agenda Additions:**
  - Swearing in of two new Firefighters; Mr. Andrew Gauer and Ms. Teran Mitchel.
  - Discussion of moving Oct. 28<sup>th</sup> Council meeting to October 27<sup>th</sup> because of Trick or Treat.
9. **Reports of Administrative Officers:**
  - a. **Mayor/Director of Safety**
  - b. **Director of Administration**
  - c. **Director of Public Service**
  - d. **Director of Economic Development**
  - e. **Director of Finance**
  - f. **Director of Law**
10. **Reports of Standing Committees of Council of the Whole:**
  - a. **Planning and Zoning**  
James Donovan, Chair  
Craig Sisak, Vice Chair
  - i. **First Readings of Resolutions and Ordinances**

**A. Ord. 108-2021 – Exhibit A – Exhibit A Tracked** – Relocating and renumbering Tallmadge Codified Ordinance Chapter 1195 Erosion and Sediment Control to Chapter 981 in Part Nine-Streets, Utilities and Public Service Code.

**ii. Additional items.**

**b. Finance**

Craig Sisak, Chair

James Donovan, Vice Chair

**i. Third Readings of Resolutions and Ordinances**

**A. Ord. 103-2021** – Authorizing the Mayor to enter into a lease with Southeast Avenue Company, LLC, for 731 Dunbar Road and providing for immediate enactment.

**B. Ord. 105-2021** – Authorizing the appropriation and advance of funds for purposes of the Fire Station Construction Project and providing for immediate enactment.

**C. Ord. 107-2021** – Authorizing the Director of Public Service to advertise for bids and the Mayor to enter into contract for conduit installation to Phase 4 of the Tallmadge Reserve for future fiber optic service and providing for immediate enactment.

**First Readings of Resolutions and Ordinances**

**A. Ord. 109-2021 – Exhibit A – Exhibit A Tracked** – Amending Ord. 66-2013 rates, charges, and fees for the Zoning Department and providing for immediate enactment.

**ii. Additional Items**

**c. Personnel**

Christopher Grimm, Chair

Rebecca Allman, Vice Chair

**i. Additional Items**

**d. Community Issues**

Dennis Loughry, Chair

Jonathon Bollas, Vice Chair

**i. Additional Items**

**e. Safety**

Jonathon Bollas, Chair

Christopher Grimm, Vice Chair

**i. Additional Items**

**f. Public Service**

Rebecca Allman, Chair

Dennis Loughry, Vice Chair

**i. Second Readings of Resolutions and Ordinances**

**A. Ord. 106-2021 – Exhibit A** – Granting an electric service easement from the City of Tallmadge to Ohio Edison Company, said easement being known as part of PPN 6003866 and PPN 6000495 and providing for immediate enactment.

**ii. Additional Items**

**11. Reports of Special Committees:**

**12. Announcements:**

**13. Adjournment:**

COUNCIL MEETING

Council Chambers @ 7:00 p.m.

September 23, 21

- 1. **CALL TO ORDER.** President of Council Kilway called the Regular Council meeting of Thursday, September 23, 2021 to order at 7:00 p.m. Public input is invited at the beginning of the meeting to discuss an item that is not on the agenda. So please wait until you are recognized by the Chair and state your name and address so that your comments may be properly recorded and limit your remarks to a period of two (2) minutes or less. It is appreciated that anyone wishing to address Council register with the Clerk of Council or through the on-line form by 3:00 p.m. the day of the meeting. This is not necessary; it is just appreciated.
- 2. **OPENING PRAYER AND PLEDGE OF ALLEGIANCE.**
- 3. **ROLL CALL:** Mrs. Allman, Mr. Bollas, Mr. Donovan, Mr. Grimm, Mrs. Kilway, Mr. Sisak – present. Also, present were Dir. of Public Service Rorar, Dir. of Administration Cooper, Dir. of Economic Development Springer, Dir. of Law Raber, and Clerk of Council Burton. Mr. Loughry was excused.
- 4. **CORRECTING AND ADOPTING THE PREVIOUS MEETING MINUTES:**
  - 9-9-21 Regular Council Meeting minutes.
 Mr. Sisak moved to adopt the 9-9-21 Council Meeting minutes. Seconded Mr. Donovan. Roll Call: Mr. Bollas, Mr. Donovan, Mr. Grimm, Mrs. Kilway, Mr. Sisak, Mrs. Allman – unanimous. **The meeting minutes have been adopted by a vote of 6-0.**
- 5. **Financial Reports:** None.
- 6. **Public Hearings:**

**Ord. 85-2021  
PUBLIC SERVICE  
P.H. on 9-23-21 @ 7:03 p.m.  
P&Z Rec. Approval 5-0  
Amended 8-12-21 & 9-9-21**

**At 3<sup>rd</sup> Reading.**  
Repealing and replacing Tallmadge  
Codified Ordinance Part Eleven –  
Planning & Zoning Code.

**Pres. of Council:** It is now 7:03 p.m. and I call the public hearing for Ord. 85-2021 open. Is there anyone who would like to speak in favor of Ord. 85-2021?

**Jim O'Connor with Pulte Homes.** Discussed the moratorium that was directed toward the R-6. I commend the staff and the Planning Commission for the effort that went into the planning and revisions to the Code. I would strongly encourage you to adopt the legislation.

**Pres. of Council:** Is there anyone who would like to speak against Ord. 85-2021? No one responded.

**Pres. of Council:** Second time; is there anyone who would like to speak in favor of Ord. 85-2021? No one responded. Is there anyone who would like to speak against Ord. 85-2021? No one responded.

**Pres. of Council:** Third and final time; is there anyone who would like to speak in favor of or against Ord. 85-2021? No one responded.

It is now 7:07 p.m. and I will call the public hearing for Ord. 85-2021 closed and I will recognize the Public Service Chair, Mrs. Allman.

**Mrs. Allman:** I call the Public Service Committee to order. Is there discussion on Ord. 85-2021?

**Mr. Grimm:** First off, I want to commend the Administration for the work that they have done on this and their patience with myself and Mr. Loughry in the process of going through this thing. This is not a personal thing; I just don't like R-6. He discussed the reasons for his opposition.

**Mr. Bollas:** I just wanted to clarify the Law Director's comment from the last report and meeting for the Zoning Code. The rezoning proposal, you mentioned it is tied to the development plan; can you just clarify that statement one last time for us please?

**Dir. of Law:** So, what that is is that the actual plan that is presented is tied to the rezoning. Historically the rezoning process was separate and apart from the development plan. With the R-6 they go hand in hand and so the rezoning doesn't actually happen until that development gets approved. So, with other rezoning types, historically, and this is a change throughout the Code, historically if you came to the City and asked to be rezoned let's say from Commercial to Industrial and you got the Industrial rezoning, you may have presented a plan to the committee but you got that rezoning and then if you never ended up performing that plan or doing that plan, there was no penalty to an applicant to revoke that change in zoning back to the initial zoning.

What this does is say that you only get that R-6 zoning if you comply with the development standard or the development that you submitted. We have done that not just in the R-6 in the revision but also anytime there is a rezoning now.

**Mr. Bollas:** They go through Planning & Zoning; is it just a majority approval; a majority vote?

**Dir. of Law:** Correct. So, it is a majority vote there and then it also has the additional process of coming in front of City Council. So then once it comes in front of City Council, City Council can overturn Planning & Zoning with a super majority, or it can go along with the simple majority.

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**Mr. Bollas:** So, it's both?

**Dir. of Law:** No, if you are following the recommendation, Council just needs a simple majority and if you are overturning it . . .

**Mr. Bollas:** A super majority.

**Dir. of Law:** To just reiterate from the last time, the change to increase the amount of acreage to 100 actually came from meetings that we had with Councilperson Grimm and Councilperson Loughry because the concern was that we wanted to be able to ensure that we would actually be able to fit all the different types and making sure we had that stratification of some of the homes that are technically even bigger than what the underlying zoning are up to what is the mandatory minimum larger that they have to include on the property as well. So, it really had more to do with wanting to make sure we could fit the different types and styles in as opposed to doing it for any particular properties and I would be happy to answer any other questions if anybody has any.

**Mr. Sisak:** How does the Board of Zoning Appeals work with that in the new Code?

**Dir. of Law:** It would work pretty much the same as it has. So, there is a volunteer board. The criteria for the R-6 is primarily the same. In some of the other sections, they would follow the administrative process where they have to apply the standards in the Code and then they have to analyze that request, whatever that request is, under the criteria for making that change whatever change that might be that is outlined.

**Forrest Gibson, OHM Advisors.** There was discussion regarding R-6 and some of the new sections that have been introduced.

**Mrs. Allman:** Are there any other questions or discussion?

**Pres. of Council:** I mean, we are talking a lot about this R-6 overlay is what it is. It is not rezoning anything that already is zoned right now in the City. Everything in the City is staying the same. This document is so much more than just the R-6 in my opinion. I mean, like Mr. Gibson said, it is 300+ pages worth of a lot of work. Am I a fan of the R-6 property? Not particularly, but that is my opinion. There are things in place so that it has to go through Planning & Zoning first and then it has to come through Council and then we will have to make a decision at that point in time and so I am not basing my decision of this Zoning Code just based off the R-6 portion of it. Everything else that is in it I think has been very well thought out and meticulously planned. That is all I have to say.

**Mr. Sisak:** I would like to make a motion to adopt Ord. 85-2021. Seconded Mrs. Kilway.

**Dir. of Law:** Commended Helene for doing a fabulous job.

Roll Call: Mr. Donovan – yes, Mr. Grimm – no, Mrs. Kilway – yes, Mr. Sisak – yes, Mrs. Allman – yes, Mr. Bollas – yes. **Ord. 85-2021 is adopted by a vote of 5-1.** Is there anything else to come before the Public Service Committee? I close committee.

### 7. **Community Input:**

**Pres. of Council:** Now we will go into the Community Input section of the agenda. So, if anyone has anything they would like to discuss; I know we have a couple of people here. Please come to the podium and state your name and address.

**Marilyn Tuescher, 518 Tammery Drive, Tallmadge.** She and her husband have lived at 518 Tammery Drive for over 35 years. John and Rosemary Berdy, who are our neighbors, have lived on Tammery Drive for over 50 years.

The story that was circulating was that the first builder ran out of money and the project stopped mid-build. Unfortunately, the first builder's property lines weren't very good either, but it apparently took two more builders and banks before the project was picked up, financed, reapproved by the City of Tallmadge Planning & Zoning Department and the remainder of the allotment was subsequently finished. But the final builder allegedly started his build from the end of the street rather than from where the previous build stopped. As you can guess, this caused even more property line issues to be incorrect.

There was further discussion regarding the property lines in the area.

**John Berdy, 526 Tammery Drive, Tallmadge.** The home we are talking has been there for 50+ years and has been rented for 50 years. We put up a white plastic fence but still everything that comes on the other lot I took care of. I believe that with all the work that we have done over there in the last 50 years that we should have something corrected out of that. That's all I have to say.

**Mr. Grimm:** Mr. Berdy, you say you lived in that house for 50 years. Did you buy it new?

**Mr. Berdy:** It was second hand.

**Mr. Grimm:** How old was it then; about 10 years old when you moved in or 5 years old, and the property line was like that at that point and just nobody noticed. Is that what happened?

**Mr. Berdy:** When I built my garage, I had a gentleman from Tallmadge and he said you are OK at your garage, and he walked 10 feet over and walked directly over Tammery Drive and he said this is where your property ends.

**Mr. Grimm:** Capriola; yeah.

**Mr. Berdy:** Capriola. That is the gentleman that came out and he said verbally to me because I will never forget that.

**Mr. Grimm:** So, at that point you presumed that your property line was fine, and you were building your garage . . .

**Mr. Berdy:** When the gentleman said that; yes.

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**Mr. Grimm:** You felt at that time that you were 10 foot off of your property line, but in reality you were on top of the property line; is that right?

**Mr. Berdy:** I didn't know.

**Mr. Grimm:** You weren't, you were on top of the property line in reality at that time?

**Mr. Berdy:** When he walked over 10 feet over; that is . . . that was our property line at the end of that.

**Mr. Grimm:** But in reality, where is your property line . . .

**Mr. Berdy:** According to when they came back out, the property line is 5 feet towards the garage.

**Mr. Grimm:** So, he was mistaken when he told you that property line was 10 feet over?

**Mr. Berdy:** That's correct.

**Mr. Grimm:** They charged you a permit for that; you paid a fee?

**Mr. Berdy:** Yes, we did.

**Mr. Grimm:** How many houses in your allotment are like that . . . is it just on the bend?

**Mr. Berdy:** There are basically 6 in a row that are messed up in this area. One house on the cul-de-sac half of their property in the back belongs to Akron and the other half belongs to them.

**Mr. Grimm:** OK.

**Mr. Sisak:** I have a question for the Law Director. So, when someone certifies . . . a surveyor certifies their work; who then takes responsibility for the certification? Does it get logged with the County or the City?

**Dir. of Law:** So, when a development goes in, the property is platted, and it goes through a review process through the City and then the developer hires a surveyor, and that surveyor signs off on what that legal description is which should match what is platted and they file that with the County. There is not another survey that is done by the City, so the surveyor has the credentials and signs off on that when it is filed with the County, the County is typically making sure that that survey makes sense to the extent that it is a closed survey line.

**Mr. Sisak:** So, I guess my question then is who guarantees the survey is accurate and correct?

**Dir. of Law:** The surveyor is taking the responsibility for that in general. They have the credentials, and they are surveying it and . . .

**Mr. Sisak:** So, when they file with the County then they are just saying these are my findings and this is how I see this development and so they are really kind of submitting plans essentially.

**Dir. of Law:** They are submitting what should be the deeds; they are creating the property descriptions which will be the deeds which get sold by the developer.

**Mr. Sisak:** So, I wonder what the deeds say on these.

**Dir. of Law:** So, I think that is the problem is that the deeds don't necessarily match up with what the plat is. So that is part of the problem and then when people do an addition, like a garage or a fence or whatever . . .

**Mr. Sisak:** So, how do the deeds not match the plat? You can only sell what is . . .

**Dir. of Law:** Correct, and so I don't know . . . I don't know for a fact, but I would imagine that the surveyor did not survey it correctly to match up with the plat. I mean, that is . . .

**Mr. Sisak:** I wonder what the deeds say then?

**Dir. of Law:** Well, the deeds say whatever the surveyor submitted to the County. So the deeds don't match what the plat is; where the plat lines are I think is the issue and then I think, I think in this particular development there may also be like a third property line because people then kind of just adjusted to what made common sense and so they lived; they started mowing and taking care of the property line because what was installed, I don't think even necessarily matches the deeds and doesn't necessarily match the plat.

**Mr. Sisak:** There almost needs to be a forensic look at this all the way back to . . .

**Dir. of Law:** Well, the problem is is that this happened about 55 years ago and a lot of the detailed records are not going to be available anymore and the issue with the City . . . so a replat process, you have to go through a process, which we certainly would support; the replat process, everybody . . . so now the developer has sold all these houses clearly for years now and these parcels are all privately held and so in order to do a replat, everyone has to sign off and concur if their property lines are going to be moved. So, if all of the people consent, then we can go through a process and Helene and I have been looking in the Code; Helene has been doing a lot of research to try to see what historically what files we can find, but to see what the most practical and logical process might be, if we can get consent from the property owners, however, we don't have jurisdiction to just change those property lines. If there is not consent of all the property owners involved, then what has to happen is a court has to make that determination and you know it can either be as one side is saying that they are asking for an easement and the other side is saying that they probably have a valid adverse possession claim and so either of those has to be ultimately determined by a judge if there is not consent. If there is consent, then it makes it an easier process.

**Mr. Sisak:** Is the City the prosecutorial?

**Dir. of Law:** No. So, it is not a criminal issue. Right.

**Mr. Sisak:** But we would be the ones sponsoring the . . .

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**Dir. of Law:** To bring it to a court?

**Mr. Sisak:** Yes.

**Dir. of Law:** No, because again, we don't have that private property vested right, so it is the parties that have that private property right that need to determine that. So, we are putting resources and time and energy into trying to see if there . . . what options or pathways we can present that if there is a consent, we can certainly help and we are trying to look at what other avenues we can do to assist the problem and trying to fix it but again, this is . . . I think that the garage that was referenced was built I think some 30 years if I remember correctly from what we have looked at and so it is . . . all the personnel has changed, and we don't have any . . . you can't just ask that person what was your thought process?

**Mr. Sisak:** Yeah, it sounds like we are doing our due diligence which I appreciate to rectify the situation.

**Dir. of Law:** We will do what we can to help, but again, at the end of the day, it is an arduous process either way because you either have to go through a process with consent which makes it a little bit easier to go down that path, but you still have to go through certain steps or you have to go through court and go through certain procedures, but at the end of the day it really comes down to because these protections are in place to protect the private property.

**Mr. Sisak:** So, say we had consent, 6 out of 6, then the City would be able to replat this on behalf of all 6 homeowners?

**Dir. of Law:** So, we can explore those possibilities and that is kind of part of what we are looking into right now and I know Helene had some communication with Mrs. Teuscher and we are certainly happy to sit down. I know I have had a conversation with the Berdy's son and I have had conversations quite some time ago, but we are more than happy to sit down and try to work through what some of the possibilities might be and ways that we can assist, but it is a complicated situation because there are multiple properties involved and it is a very, unfortunately, an old issue that now we are trying to look at what we can do.

**Mr. Sisak:** Thank you.

**Mr. Grimm:** What stands more; the deed or the plat when they don't mesh up? Which one do you go off of?

**Dir. of Law:** So that is a good question, and I would have to research that. But again, I would think that maybe it would be the deed. I don't know, but because that is what they possess in their; that is what they have on their deed.

**Mr. Grimm:** I don't know. As you look at the GIS, all those homes are aimed as though they were built with square lots to them, not an angle lot. They all look right to the street. They don't go with the angle of the . . .

8. **Agenda Additions:** Ohio Div. of Liquor Control Application for Acme on South Ave.

Ohio Div. of Liquor Control Application for Speedway on East Ave.

**Pres. of Council:** Mr. Springer did a little bit of research on this for us.

**Dir. of Econ. Dev.** I did do a little research, and this was a new experience for me. Ultimately I don't believe we need to request a hearing. Both Speedway as well as Acme have existing permits. Speedway for example has a C-1 and C-2 permit existing. Acme has a D-1, D-2, D-6, and D-8 and what this is was actually a stock transfer and any time there is a stock transfer that is 5% or more, the local jurisdiction is notified. So that is what happened in this case for both Speedway as well as Acme, so I don't believe there is any need to request a hearing.

**Pres. of Council:** Council, is everyone in agreement on this? Do you think we need to have a hearing on these two matters?

**Mr. Sisak:** No, we haven't in the past, and I don't think we need to in this situation.

**Pres. of Council:** Alright, so we will not have hearings for either one of these liquor control applications.

9. **Reports of Administrative Officers:**

a. **Mayor/Director of Safety:** Mayor Kline is not here.

b. **Director of Administration:** Good evening everyone. Just two quick things. A little lighter note I might add than some of the other dialogue we have had. On Thursday, October 28<sup>th</sup> from 5:30 to 7:00 p.m. is Trick or Treat. Remember to turn on your porch light. These things were posted on the City's website or I'm sorry, Facebook page.

Also, you might have seen on the Facebook page this particular flier which is about the survey that we are currently undergoing. On the 20<sup>th</sup> of September we started a survey for the purpose of which is to understand existing needs, challenges, pricing, and user experience of residential and business internet customers in the City. It is going to be open until the 10<sup>th</sup> of October which is approximately 3 weeks. In 2 days, we had 792 responses for the surveys and so it has been quite good so far. You might know that the Environmental Design Group, EDG, is the one that is helping us with this particular effort. That is really all I have unless anyone has any questions.

**Mr. Bollas:** I just had a question. One of the questions was about telework and distance learning and things like that; is there a way that we can take any of the information of existing questions because I didn't see a question specific to you know, working from home, specific to OK, you are working from home today, but are you working from home permanently because of the pandemic or what not and I know we talked before about the different income tax and things of that nature and I was just

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**Mr. Bollas (Cont'd.)** curious if that is not already there because I did not see a specific question until I look at forecasting the demand in the future like how much of our population is working from home full-time; I think that would be good information to know not only for the demand for internet but also for the income tax piece of it.

**Dir. of Administration:** I agree completely. There is a lot of information I would love to get through surveying our residents. Unfortunately, that wasn't a piece that we included in the current survey and the survey is already gone out and so we can't really add or modify it. I can tell you though that we had a lot of sometimes intense discussions about exactly what we should ask in this particular survey and so it kind of landed where it was to help get it moving and there is also other criteria keeping it brief enough so people don't get kind of frustrated and things like that, but I agree completely I would love to learn some of the things you described through surveys and maybe it is something we can do in the future.

**Mr. Bollas:** OK, and then the last thing was that once we gather this information there are other neighboring communities like Hudson for example that are right in the middle of their projects, and some have spent \$20 million plus, and it has not been successful and reaping the ROI if you will on the investment and you know getting those benefits; the longevity of it. How are we taking the information from the survey and looking at it long term?

**Dir. of Administration:** So, to reiterate your question, I think, so if you are asking how are we going to use this information to . . . is that basically your questions?

**Mr. Bollas:** Once you get the information, essentially how . . . what is the next steps; what are you accessing so that you understand what the investment is going to cost long term and what the benefits are going to be?

**Dir. of Administration:** So, that is exactly what we expect to learn from the survey; what the benefits will be. What it is doing is it's putting in place an understanding exactly like the purpose was. We need to first understand what our residents are experiencing in terms of their use of the internet. That is what this is supposed to do. We already have a very general idea of what it would cost to develop or build the infrastructure for the entire City and frankly every minute it gets more expensive the longer we wait. But what we need is more information about should we start in certain areas because there is greater interest? The questions we are asking hopefully will give us the information that they will need to make some of those decisions.

**Mr. Bollas:** Yeah, and I support the survey. I am looking at it holistically to think that right now a lot of residents are just unhappy with their service. So, if you asked somebody hey, are you a fan of this, they are probably going to say yes just because it is a lack of options; right?

**Dir. of Administration:** Yes.

**Mr. Bollas:** But, just looking at holistically and forward thinking you know just factoring that in and looking at the survey results and then thinking OK, if this person; maybe is there a way we could get Spectrum in a room and just talk; hey can you guys do something.

**Dir. of Administration:** Hopefully those kinds of discussions we could have once we have this information. This is not the first step, by the way, in a plan; it is about the third step. There are a few more before we actually get into a position to where we could offer service for example.

c. **Director of Public Service:** Mr. Rorar was absent.

d. **Director of Economic Development:** I will be very brief. I will save more of the formal part of the report until October. I did just want to remind you that we do have an upcoming ribbon cutting for Urban Choir and that is going to be next Wednesday, and they are located at 222 West Avenue and that is going to begin at 5:00 p.m. The following day at Speelman Electric they are going to have their open house and we would certainly like for all of you to join us and that is going to start at 2:30 p.m. Obviously the Henry Bierce showroom is moving forward. They are actually going to relocate probably this weekend, but they would like to get some of their landscaping put in before we actually do the ribbon cutting over there. So, that is to be determined. I will give you more details in October, but we are keeping busy and there is a lot of activity taking place.

e. **Director of Finance:** Mrs. Gilbride is absent.

f. **Director of Law:** I have no report this evening.

10. **Reports of Standing Committees of Council of the Whole:**

a. **Planning and Zoning**

James Donovan, Chair

Craig Sisak, Vice Chair

**Mr. Donovan:** I call the Planning and Zoning Committee to order. We do not have any legislation at this time. Does anyone have anything they would like to discuss? No one responded. Hearing none, I will close committee.

i. **Additional items:** None.

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### b. Finance

Craig Sisak, Chair

James Donovan, Vice Chair

#### i. Second Readings of Resolutions and Ordinances.

- A. **Ord. 103-2021** – Authorizing the Mayor to enter into a lease with Southeast Avenue Company, LLC, for 731 Dunbar Road and providing for immediate enactment.

**Mr. Sisak:** Thank you. I would like to call the Finance Committee to order. We currently have Ord.103-2021. Ord. 103-2021 was read into the record. I think this is something that can probably stay at 2<sup>nd</sup> Reading if everyone is in agreement.

- B. **Ord. 105-2021** – Authorizing the appropriation and advance of funds for purposes of the Fire Station Construction Project and providing for immediate enactment.

**Mr. Sisak:** We also have Ord. 105-2021. Ord. 105-2021 was read into the record. This is something that we talked about and said at the last meeting we would give it a 1<sup>st</sup> Reading and then kind of see where we were this evening. Do we have an update on the need for this passage?

**Dir. of Administration:** No.

**Mr. Sisak :** So, we will just leave this at 2<sup>nd</sup> Reading.

#### ii. First Readings of Resolutions and Ordinances.

- A. **Res. 14-2021 – Exhibit A** – Accepting the amounts and rates as determined by the Summit County Budget Commission and authorizing the necessary tax levies, certifying them to the County Fiscal Officer and providing for immediate enactment.

**Mr. Sisak:** We have Res. 14-2021. Res. 14-2021 was read into the record. I would imagine this is housekeeping.

**Pres. of Council:** Mollie did send us an e-mail in reference to Res. 14-2021 and she says that it does not to be adopted this week. So, we can just give it a 1<sup>st</sup> Reading.

**Mr. Grimm:** This requires an Exhibit in Section 1.

**Dir. of Law:** There should be an Exhibit for this one if it wasn't linked.

**Pres. of Council:** Oh yeah; it is right there.

#### iii. Additional Items: None.

### c. Personnel

Christopher Grimm, Chair

Rebecca Allman, Vice Chair

**Mr. Grimm:** I call the Personnel Committee to order. We have no legislation before us this evening. In the obituary page, we were going to take a moment to recognize former Mayor Hood who passed on here in the last couple days. He served as Mayor. In Tallmadge, he started off in Ward 3 as a Councilman and served a couple years over there. He lived on Southeast Avenue just beyond the railroad tracks. Dennis was an interesting fellow. He was the last part-time Mayor in the City of Tallmadge. At that time Dennis worked at Sears and Roebuck up at Chapel Hill and then he would come here and run the Mayor's office from 4:00 p.m. until about 7:00 p.m. and then he would be here for the Council meetings.

With that, I think on behalf of Council we will be able to get a letter of sympathy drawn up for him and then we can sign it and send it off to the family. Dennis was a good guy. He served for 8 years for the City and for those of us who knew him, he will be remembers. Anything else for Personnel?

**Dir. of Law:** Thank you Mr. Grimm; I did just want to make you aware that someone did call our office and was routed to the Mayor's office asking for a proclamation as well, so maybe you might want to coordinate Council's efforts with Karen depending on how you want to proceed with this.

**Mr. Grimm:** We kind of got away with the Resolutions of Sympathy and are now doing a letter congratulatory or sympathy through the Clerk's office and we will get that off within a week. Other than that, I think that will be it for Personnel.

#### i. Additional Items: None.

### d. Community Issues

Dennis Loughry, Chair

Jonathon Bollas, Vice Chair

**Mr. Bollas:** I call Community Issues to order. We have no legislation tonight. Does anyone on the committee or Council or the Administration have anything for Community Issues.

**Pres. of Council:** I think the only thing that I would like to reiterate before because we won't have another Council meeting, is the Tallmadge Fall Festival is October 3<sup>rd</sup> at 1:00 p.m. and that is at the Rec Center; correct. Oh, Community Center parking lot. I think it is the Rec Center too.



COUNCIL MEETING

Council Chambers @ 7:00 p.m.

September 23,

21

**Mr. Bollas:** Anything else to come before Community Issues? I close committee. Thank you.

i. **Additional Items:** None.

e. **Safety**

Jonathon Bollas, Chair  
Christopher Grimm, Vice Chair

**Mr. Bollas:** I call the Safety Committee to order. We have no legislation this evening. Does anyone have anything for the Safety Committee this evening? I close Safety Committee.

i. **Additional Items:** None.

f. **Public Service**

Rebecca Allman, Chair  
Dennis Loughry, Vice Chair

i. **Third Readings of Resolutions and Ordinances**

**A. Ord. 86-2021 – Ex. A – Tracked Ex. A – Ex. B – Tracked Ex. B –**  
Relocating and renumbering Tallmadge Codified Ordinance Chapter 1192 Management, Administration and Control of the use of the City's Public Rights-of-Way to Chapter 961 and Chapter 1196 Illicit Discharge and Illegal Connection Control to Chapter 971 in Part Nine – Streets, Utilities and Public Service Code.

**Mrs. Allman:** I call the Public Service Committee to order. We have at 3<sup>rd</sup> Reading Ord. 86-2021. Or. 86-2021 was read into the record.

**Mr. Grimm:** Mrs. Allman, this goes along with Ord. 85-2021 so since we adopted Ord. 85-2021, I will make a motion to adopt Ord. 86-2021. Seconded Mrs. Kilway. Roll Call: Mr. Grimm, Mrs. Kilway, Mr. Sisak, Mrs. Allman, Mr. Bollas, Mr. Donovan – unanimous. **Ord. 86-2021 is adopted by a vote of 6-0.**

ii. **First Readings of Resolutions and Ordinances**

**A. Ord. 106-2021 – Exhibit A –** Granting an electric service easement from the City of Tallmadge to Ohio Edison Company, said easement being known as part of PPN 6003866 and PPN 6000495 and providing for immediate enactment.

**Mrs. Allman:** Next is Ord. 106-2021. Ord. 106-2021 was read into the record.

**Mr. Grimm:** Want to just give this a 1<sup>st</sup> Reading?

**Mrs. Allman:** Yes; we will give this a 1<sup>st</sup> Reading. Any other questions or discussion? I close committee.

iii. **Additional items:** None.

11. **Reports of Special Committees:** None.

12. **Announcements:**

**Dir. of Law:** I will stand corrected, and it was at the Rec Center.

13. **Adjournment:** Mr. Grimm moved to adjourn. Seconded Mr. Donovan. Roll Call: Mrs. Kilway, Mr. Sisak, Mrs. Allman, Mr. Bollas, Mr. Donovan, Mr. Grimm – unanimous. **The Council meeting of 9-23-21 adjourned at 8:08 p.m.**

sb

Adopted:

\_\_\_\_\_  
Susan E. Burton, Clerk of Council

\_\_\_\_\_  
Carol A. Kilway, President of Council

Ordinance 108-2021

Presented by:  
Mayor David G. Kline  
Director of Law Megan E. Raber

RELOCATING AND RENUMBERING TALLMADGE CODIFIED ORDINANCE CHAPTER  
1195 EROSION AND SEDIMENT CONTROL TO CHAPTER 981 IN PART NINE-STREETS,  
UTILITIES AND PUBLIC SERVICE CODE

WHEREAS, during the redrafting of Part Eleven-Planning and Zoning Code Chapters 1195 was identified as needing to be relocated and renumbered; and

WHEREAS, the City desires to relocate and renumber Chapter 1195 Erosion and Sediment Control to Chapter 981 in Part Nine-Streets, Utilities and Public Service Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That Tallmadge Codified Ordinance Chapter 1195 Erosion and Sediment Control be relocated and renumbered as Chapter 981 Erosion and Sediment Control in Part Nine-Streets, Utilities and Public Service Code as provided in Exhibit A, attached and incorporated herein.

SECTION 2. That the effective date of this legislation shall be November 1, 2021.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
10/5/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

- Chap. 905. Streets.
- Chap. 909. Sidewalks.
- Chap. 913. Driveway Approaches.
- Chap. 915. Ditch Enclosures.

TITLE THREE - Utilities

- Chap. 921. Sewers.
- Chap. 925. Sewage Disposal Rates.
- Chap. 927. Stormwater Management Utility.
- Chap. 929. Water.

TITLE FIVE - Other Public Services

- Chap. 941. Cemetery Regulations.
- Chap. 951. Parks.
- Chap. 961. Management, Administration and Control of the Use of the City's Public Rights-of-Way
- Chap. 971. Illicit Discharge and Illegal Connection Control
- Chap. 981. Erosion and Sediment Control

CHAPTER 981  
Erosion and Sediment Control

- 981.01 Purpose and scope.
- 981.02 Definitions.
- 981.03 Disclaimer of liability.
- 981.04 Conflicts, severability, nuisances, and responsibility.
- 981.05 Regulated activities.
- 981.06 Application procedures.
- 981.07 Storm water pollution prevention plan.
- 981.08 Abbreviated storm water pollution prevention plan.
- 981.09 Compliance with local, state, and federal regulations.
- 981.08 Performance standards.
- 981.11 Fees.
- 981.12 Bond.
- 981.13 Enforcement.
- 981.14 Violations.
- 981.15 Appeals.
- 981.99 Penalty.

981.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of Tallmadge.

(b) This regulation will:

- (1) Allow development while minimizing increases in erosion and sedimentation.
- (2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving streets, highways, underground cables, or pipelines; subdivisions, planned residential developments, or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 981.01(d).

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules. Rules 1501:15-5-01 to 15-5-18 of the Ohio Administrative Code.

(Ord. 35-2006. Passed 8-10-06.)

981.02 DEFINITIONS.

For purpose of this Chapter, the following terms shall have the meaning herein indicated:

(a) ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter if requested for project less than one acre in size.

(b) ACRE: A measurement of area equaling 43,560 square feet.

(c) BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to minimize soil erosion and sedimentation and to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(d) COMMUNITY: Throughout this Chapter, this shall refer to the City of Tallmadge, its designated representatives, boards, or commissions.

(e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this Chapter.

(f) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(g) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

(h) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.

(i) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(j) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

(k) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 70% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

(l) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

(m) LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(n) MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(o) NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(p) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the County Auditor's Fiscal Officer's Office.

(q) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

(r) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(s) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.

(t) RAINWATER AND LAND DEVELOPMENT MANUAL: Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall apply to this Chapter.

(u) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(v) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(w) SEDIMENTATION: The deposition or settling of sediment.

(x) SETBACK: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this Chapter.

(y) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(z) SOIL & WATER CONSERVATION DISTRICT: A subdivision of the State of Ohio organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as SWCD.

(aa) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(bb) STREAM: A surface water course with a well defined bed and bank, either natural or artificial, which confines and conducts continuous or periodic flowing water (ORC 6105.01).

(cc) STORM WATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.

(dd) UNSTABLE SOILS: A portion of land that is identified by the County or City Engineer, County or City Building Standards and/or the SWCD as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(ee) WATER RESOURCE: Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

(ff) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

(Ord. 35-2006. Passed 8-10-06.)

### 981.03 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.04 CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY.

(a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This Chapter shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Tallmadge, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.  
(Ord. 35-3006. Passed 8-10-06.)

#### 981.05 REGULATED ACTIVITIES.

(a) This Chapter requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one (1) acre or more and on which any regulated activity of Section 981.01(c) is proposed.

(b) At the request of the City Engineer, the following activities may be required to submit an Abbreviated Storm Water Pollution Prevention Plan:

- (1) New single-family residential construction regardless of parcel size.
- (2) Additions or accessory buildings for single-family residential construction regardless of parcel size.
- (3) All non-residential construction on parcels of less than one (1) acre.
- (4) General clearing activities not related to construction and regardless of parcel size.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.06 APPLICATION PROCEDURES.

(a) Soil Disturbing Activities Submitting a Storm Water Pollution Prevention Plan: The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the SWCD as follows:

- (1) For subdivisions: After the approval of the preliminary plat and with submittal of the improvement plans.
- (2) For other construction projects: Before issuance of a building permit by the Building Department.
- (3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.

(b) Soil Disturbing Activities Submitting an Abbreviated Storm Water Pollution Prevention Plan: The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the City Engineer as follows:

- (1) For single-family home construction: Before issuance of a building permit by the Building Department.

(2) For other construction projects: Before issuance of a building permit by the Building Department.

(3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.

(c) The SWCD and/or the City Engineer shall review the plans submitted under Section 981.06 (a) or (b) for conformance with current NPDES permit requirements and this Chapter and approve, or return with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.

(d) Soil disturbing activities shall not begin, final plat approvals shall not be issued, zoning certificates and building permits shall not be issued without an approved SWP3 or Abbreviated SWP3.

(e) A pre-construction meeting may be held with the City Engineer and/or SWCD inspector or their designee, at their discretion, prior to earthwork activities. The developer, contractor, and design engineer should be in attendance at the pre-construction meeting.

(f) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this Chapter.

(g) Approvals issued in accordance with this Chapter shall remain valid for two years. If regulations concerning erosion and sediment control or storm water quality change prior to the beginning of active construction, a new SWPPP may be requested by the SWCD or City Engineer. (Ord. 35-2006. Passed 8-10-06.)

#### 981.07 STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this Chapter. The SWP3 must comply at a minimum to the most recent Ohio EPA NPDES Permit. For specific requirements of a SWP3, the designer shall refer to the NPDES Ohio EPA General Construction Permit and the SWCD SWP3 Check List. The SWP3 must address erosion and sediment control during construction as well as post construction water quality practices. Post construction practices must meet the requirements of the NPDES Ohio EPA General Construction Permit and the City and/or County storm water management technical guidelines.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources.

(d) Trapping Efficiency: All sediment basins and traps must maintain a minimum seventy-five percent (75%) trapping efficiency throughout the construction period as determined by engineering calculations contained within the applicable County Water Quality and Trapping Efficiency Program. The approved program to determine trapping efficiency is available through the Soil and Water Conservation District.

(e) Soils Engineering Report: The City Engineer, or the County SWCD may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils



are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based upon adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and reviewed by the City Engineer or the SWCD shall be incorporated in the grading plans and/or other specifications for site development.

(1) Data regarding the nature, distribution, strength, stability, and erodibility of existing soils.

(2) If applicable, data regarding the nature, distribution, strength, stability, and erodibility of the soil to be placed on the site.

(3) Conclusions and recommendations for grading procedures.

(4) Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.

(5) Design criteria for corrective measures when necessary.

(6) Opinions and recommendations concerning the stability of the site.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.08 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this Chapter.

(b) The Abbreviated SWP3 shall be developed in accordance with guidance provided by the SWCD SWP3 checklist or comparable checklist from the City.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.09 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS.

Approvals issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals are required to show proof of compliance with all state and federal regulations.

(a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit

proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A copy of the wetland delineation prepared in accordance with the U.S. Army Corps Wetlands Delineation Manual prepared by a qualified wetland biologist and/or Jurisdictional Determination issued by the U.S. Army Corps of Engineers.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(f) Riparian Setback Ordinance: Proof of compliance shall be a copy of the SWCD approval letter. Riparian setbacks must be shown on the SWP3.

(Ord. 24-2019. Passed 2-28-19.)

#### 981.10 PERFORMANCE STANDARDS.

The SWP3 must contain a description and location of all appropriate BMPs for each construction operation. Prior to the start of grading and within seven days from the start of grubbing, the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the person(s) responsible for implementation.

(a) No project subject to this Chapter shall commence without a SWP3 or Abbreviated SWP3 approved by the SWCD and/or City Engineer.

(b) No project subject to this Chapter shall commence without a pre-construction meeting, if required, being held with the City Engineer and/or SWCD. It will be the developer or land owner's responsibility to contact the SWCD and/or City Engineer.

The controls shall include the following minimum components:

##### 1. DURING ACTIVE CONSTRUCTION.

(a) NON-STRUCTURAL PRESERVATION MEASURES: The applicant must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.

(1) Stream protection. The requirements of the T.C.O. Chapter 1110.09 for Riparian Setbacks shall be followed.

(2) Wetland Protection. The setback requirements of the City Subdivision and Zoning Regulations shall be followed in addition to County, State, and Federal regulations.

(b) EROSION CONTROL PRACTICES: The applicant must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

(c) RUNOFF CONTROL PRACTICES: The applicant must make use of measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock

check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.

(d) **SEDIMENT CONTROL PRACTICES:** The applicant must install structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than fourteen days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.

(e) **NON-SEDIMENT POLLUTANT CONTROLS:** No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands.

(f) **COMPLIANCE WITH OTHER REQUIREMENTS:** The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

(g) **TRENCH AND GROUND WATER CONTROL:** There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

(h) **INTERNAL INSPECTIONS:** All controls on the site shall be inspected by the applicant's agent at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.

(i) **MAINTENANCE:** The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the SWCD.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

(1) When practices require repair or maintenance. If an inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

(2) When practices fail to provide their intended function. If an inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

(3) When practices depicted on the SWP3 are not installed. If an inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(j) FINAL STABILIZATION: Final stabilization is reached when 75% of the disturbed area has been protected from erosion by vegetation, clean stone, pavement, or other acceptable means.

## 2. POST CONSTRUCTION WATER QUALITY PRACTICES.

(a) NON-STRUCTURAL WATER QUALITY PRACTICES: Non-structural post construction best management practices include preservation, planning, or procedures that direct development away from water resources or limit creation of impervious surfaces. Practices such as conservation easements, riparian and wetland setbacks, and conservation subdivision design are all non-structural controls.

(1) All non-structural water quality practices must be protected from disturbance through the construction phase of the project.

(2) All non-structural water quality practices must be protected in perpetuity through the use of appropriate legal tools. All easement or conservation areas must appear on the final plat and be disclosed to potential buyers.

(b) STRUCTURAL WATER QUALITY PRACTICES: Structural post construction best management practices are permanent features constructed to provide treatment of storm water runoff either through storage, filtration, or infiltration.

(1) All structural water quality practices must be established prior to the completion of the project. Structural water quality practices should be made functional once the disturbed areas on site are stabilized. If detention/retention facilities were used for sediment control during development, sediments must be removed prior to the basin being used for post construction storm water quality.

(2) MAINTENANCE. The post construction water quality practice must be maintained in perpetuity by those parties identified in the SWPPP, the applicable recorded plat, or other maintenance requirements of the City.  
(Ord. 35-2006. Passed 8-10-06.)

### 981.11 FEES.

(a) A Storm Water Pollution Prevention Plan review, filing, and inspection fee is part of a complete submittal to the SWCD. Fees are required to be submitted to the SWCD before the review process begins. Fees shall be established by the SWCD.

(b) The City Engineer may, at his discretion, have any Abbreviated Storm Water Pollution Prevention Plan reviewed by the SWCD. All fees associated with the SWCD review shall be the responsibility of the developer or owner.  
(Ord. 35-2006. Passed 8-10-06.)

### 981.12 BOND.

If a Storm Water Pollution Prevention Plan or Abbreviated Storm Water Pollution Prevention Plan is required by this Chapter, soil disturbing activities shall not be permitted until a performance guarantee in the form of a performance bond, irrevocable letter of credit, or cash has been deposited with the

Director of Public Service. The bond amount shall be as established by the Director of Public Service. The performance guarantee will be used for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this Chapter and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this Chapter. The performance guarantee shall be returned after all work required by this Chapter has been completed and final stabilization has been reached, all as determined by the SWCD and/or City Engineer.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.13 ENFORCEMENT.

(a) All development areas will be subject to external inspections by the City and/or SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(b) After each external inspection, the City and/or SWCD may prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City may take action as detailed in Section 981.14 of this regulation.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.14 VIOLATIONS.

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) If it appears that a violation of any of these regulations has occurred, the owner and developer will be notified of deficiencies or non-compliance in writing by mail. If within 21 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, the deficiency or non-compliance shall be reported to the Director of Law for immediate enforcement of these regulations. Inspections by the City or SWCD do not relinquish the responsibility of the owner to comply with Ohio EPA NPDES inspection requirements.

(c) Upon notice, the Director of Law may suspend any active soil disturbing activity and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this Chapter. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Director of Law and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

(d) The City reserves the right to deny the issuance of any further plat approvals or building inspections for the property in question until the site is brought into compliance with this Chapter.

(Ord. 35-2006. Passed 8-10-06.)

#### 981.15 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this Chapter may appeal to the Court of Common Pleas.

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

- Chap. 905. Streets.
- Chap. 909. Sidewalks.
- Chap. 913. Driveway Approaches.
- Chap. 915. Ditch Enclosures.

TITLE THREE - Utilities

- Chap. 921. Sewers.
- Chap. 925. Sewage Disposal Rates.
- Chap. 927. Stormwater Management Utility.
- Chap. 929. Water.

TITLE FIVE - Other Public Services

- Chap. 941. Cemetery Regulations.
- Chap. 951. Parks.
- Chap. 961. Management, Administration and Control of the Use of the City's Public Rights-of-Way
- Chap. 971. Illicit Discharge and Illegal Connection Control
- Chap. 981. Erosion and Sediment Control

CHAPTER ~~1195~~981

Erosion and Sediment Control

- ~~981~~1195.01 Purpose and scope.
- ~~1195~~981.02 Definitions.
- ~~1195~~981.03 Disclaimer of liability.
- ~~1195~~981.04 Conflicts, severability, nuisances, and responsibility.
- ~~1195~~981.05 Regulated activities.
- ~~1195~~981.06 Application procedures.
- ~~1195~~981.07 Storm water pollution prevention plan.
- ~~1195~~981.08 Abbreviated storm water pollution prevention plan.
- ~~1195~~981.09 Compliance with local, state, and federal regulations.
- ~~1195~~981.08 Performance standards.
- ~~1195~~981.11 Fees.
- ~~1195~~981.12 Bond.
- ~~1195~~981.13 Enforcement.
- ~~1195~~981.14 Violations.
- ~~1195~~981.15 Appeals.
- ~~1195~~981.99 Penalty.

~~1195~~981.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of Tallmadge.

(b) This regulation will:

- (1) Allow development while minimizing increases in erosion and sedimentation.
- (2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving streets, highways, underground cables, or pipelines; subdivisions, planned residential developments, or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section ~~1195~~981.01(d).

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules. Rules 1501:15-5-01 to 15-5-18 of the Ohio Administrative Code.

(Ord. 35-2006. Passed 8-10-06.)

~~1195~~981.02 DEFINITIONS.

For purpose of this Chapter, the following terms shall have the meaning herein indicated:

(a) ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter if requested for project less than one acre in size.

(b) ACRE: A measurement of area equaling 43,560 square feet.

(c) BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to minimize soil erosion and sedimentation and to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(d) COMMUNITY: Throughout this Chapter, this shall refer to the City of Tallmadge, its designated representatives, boards, or commissions.

(e) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this Chapter.

(f) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(g) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

(h) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.

(i) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(j) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

(k) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 70% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

(l) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

(m) LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(n) MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(o) NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(p) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the County Auditor's Fiscal Officer's Office.

(q) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.



(r) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(s) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.

(t) RAINWATER AND LAND DEVELOPMENT MANUAL: Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall apply to this Chapter.

(u) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(v) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

(w) SEDIMENTATION: The deposition or settling of sediment.

(x) SETBACK: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this Chapter.

(y) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(z) SOIL & WATER CONSERVATION DISTRICT: A subdivision of the State of Ohio organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as SWCD.

(aa) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

(bb) STREAM: A surface water course with a well defined bed and bank, either natural or artificial, which confines and conducts continuous or periodic flowing water (ORC 6105.01).

(cc) STORM WATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.

(dd) UNSTABLE SOILS: A portion of land that is identified by the County or City Engineer, County or City Building Standards and/or the SWCD as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(ee) WATER RESOURCE: Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

(ff) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.03 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.04 CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY.

(a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This Chapter shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Tallmadge, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.  
(Ord. 35-3006. Passed 8-10-06.)

1195981.05 REGULATED ACTIVITIES.

(a) This Chapter requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one (1) acre or more and on which any regulated activity of Section 1195981.01(c) is proposed.

(b) At the request of the City Engineer, the following activities may be required to submit an Abbreviated Storm Water Pollution Prevention Plan:

- (1) New single-family residential construction regardless of parcel size.
- (2) Additions or accessory buildings for single-family residential construction regardless of parcel size.
- (3) All non-residential construction on parcels of less than one (1) acre.
- (4) General clearing activities not related to construction and regardless of parcel size.

(Ord. 35-2006. Passed 8-10-06.)

1195981.06 APPLICATION PROCEDURES.

(a) Soil Disturbing Activities Submitting a Storm Water Pollution Prevention Plan: The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the SWCD as follows:

- (1) For subdivisions: After the approval of the preliminary plat and with submittal of the improvement plans.
- (2) For other construction projects: Before issuance of a building permit by the Building Department.
- (3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.

(b) Soil Disturbing Activities Submitting an Abbreviated Storm Water Pollution Prevention Plan: The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the City Engineer as follows:

- (1) For single-family home construction: Before issuance of a building permit by the Building Department.
- (2) For other construction projects: Before issuance of a building permit by the Building Department.

(3) For general clearing projects: Prior to start of clearing or issuance of a building permit by the Building Department.

(c) The SWCD and/or the City Engineer shall review the plans submitted under Section [1195981.06](#) (a) or (b) for conformance with current NPDES permit requirements and this Chapter and approve, or return with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.

(d) Soil disturbing activities shall not begin, final plat approvals shall not be issued, zoning certificates and building permits shall not be issued without an approved SWP3 or Abbreviated SWP3.

(e) A pre-construction meeting may be held with the City Engineer and/or SWCD inspector or their designee, at their discretion, prior to earthwork activities. The developer, contractor, and design engineer should be in attendance at the pre-construction meeting.

(f) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this Chapter.

(g) Approvals issued in accordance with this Chapter shall remain valid for two years. If regulations concerning erosion and sediment control or storm water quality change prior to the beginning of active construction, a new SWPPP may be requested by the SWCD or City Engineer.  
(Ord. 35-2006. Passed 8-10-06.)

[1195981.07](#) STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this Chapter. The SWP3 must comply at a minimum to the most recent Ohio EPA NPDES Permit. For specific requirements of a SWP3, the designer shall refer to the NPDES Ohio EPA General Construction Permit and the SWCD SWP3 Check List. The SWP3 must address erosion and sediment control during construction as well as post construction water quality practices. Post construction practices must meet the requirements of the NPDES Ohio EPA General Construction Permit and the City and/or County storm water management technical guidelines.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources.

(d) Trapping Efficiency: All sediment basins and traps must maintain a minimum seventy-five percent (75%) trapping efficiency throughout the construction period as determined by engineering calculations contained within the applicable County Water Quality and Trapping Efficiency Program. The approved program to determine trapping efficiency is available through the Soil and Water Conservation District.

(e) Soils Engineering Report: The City Engineer, or the County SWCD may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or

other hazards. This report shall be based upon adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and reviewed by the City Engineer or the SWCD shall be incorporated in the grading plans and/or other specifications for site development.

(1) Data regarding the nature, distribution, strength, stability, and erodibility of existing soils.

(2) If applicable, data regarding the nature, distribution, strength, stability, and erodibility of the soil to be placed on the site.

(3) Conclusions and recommendations for grading procedures.

(4) Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.

(5) Design criteria for corrective measures when necessary.

(6) Opinions and recommendations concerning the stability of the site.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.08 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this Chapter.

(b) The Abbreviated SWP3 shall be developed in accordance with guidance provided by the SWCD SWP3 checklist or comparable checklist from the City.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.09 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS.

Approvals issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals are required to show proof of compliance with all state and federal regulations.

(a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.

(b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit

proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A copy of the wetland delineation prepared in accordance with the U.S. Army Corps Wetlands Delineation Manual prepared by a qualified wetland biologist and/or Jurisdictional Determination issued by the U.S. Army Corps of Engineers.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Chapter.

(e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(f) Riparian Setback Ordinance: Proof of compliance shall be a copy of the SWCD approval letter. Riparian setbacks must be shown on the SWP3.

(Ord. 24-2019. Passed 2-28-19.)

#### 1195981.10 PERFORMANCE STANDARDS.

The SWP3 must contain a description and location of all appropriate BMPs for each construction operation. Prior to the start of grading and within seven days from the start of grubbing, the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the person(s) responsible for implementation.

(a) No project subject to this Chapter shall commence without a SWP3 or Abbreviated SWP3 approved by the SWCD and/or City Engineer.

(b) No project subject to this Chapter shall commence without a pre-construction meeting, if required, being held with the City Engineer and/or SWCD. It will be the developer or land owner's responsibility to contact the SWCD and/or City Engineer.

The controls shall include the following minimum components:

##### 1. DURING ACTIVE CONSTRUCTION.

(a) NON-STRUCTURAL PRESERVATION MEASURES: The applicant must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.

(1) Stream protection. The requirements of the T.C.O. Chapter 1190 1110.09 for Riparian Setbacks shall be followed.

(2) Wetland Protection. The setback requirements of the City Subdivision and Zoning Regulations shall be followed in addition to County, State, and Federal regulations.

(b) EROSION CONTROL PRACTICES: The applicant must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

(c) RUNOFF CONTROL PRACTICES: The applicant must make use of measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock

check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.

(d) **SEDIMENT CONTROL PRACTICES:** The applicant must install structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than fourteen days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.

(e) **NON-SEDIMENT POLLUTANT CONTROLS:** No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands.

(f) **COMPLIANCE WITH OTHER REQUIREMENTS:** The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

(g) **TRENCH AND GROUND WATER CONTROL:** There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

(h) **INTERNAL INSPECTIONS:** All controls on the site shall be inspected by the applicant's agent at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.

(i) **MAINTENANCE:** The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the SWCD.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

(1) When practices require repair or maintenance. If an inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.

(2) When practices fail to provide their intended function. If an inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

(3) When practices depicted on the SWP3 are not installed. If an inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(j) FINAL STABILIZATION: Final stabilization is reached when 75% of the disturbed area has been protected from erosion by vegetation, clean stone, pavement, or other acceptable means.

## 2. POST CONSTRUCTION WATER QUALITY PRACTICES.

(a) NON-STRUCTURAL WATER QUALITY PRACTICES: Non-structural post construction best management practices include preservation, planning, or procedures that direct development away from water resources or limit creation of impervious surfaces. Practices such as conservation easements, riparian and wetland setbacks, and conservation subdivision design are all non-structural controls.

(1) All non-structural water quality practices must be protected from disturbance through the construction phase of the project.

(2) All non-structural water quality practices must be protected in perpetuity through the use of appropriate legal tools. All easement or conservation areas must appear on the final plat and be disclosed to potential buyers.

(b) STRUCTURAL WATER QUALITY PRACTICES: Structural post construction best management practices are permanent features constructed to provide treatment of storm water runoff either through storage, filtration, or infiltration.

(1) All structural water quality practices must be established prior to the completion of the project. Structural water quality practices should be made functional once the disturbed areas on site are stabilized. If detention/retention facilities were used for sediment control during development, sediments must be removed prior to the basin being used for post construction storm water quality.

(2) MAINTENANCE. The post construction water quality practice must be maintained in perpetuity by those parties identified in the SWPPP, the applicable recorded plat, or other maintenance requirements of the City.

(Ord. 35-2006. Passed 8-10-06.)

## 1195981.11 FEES.

(a) A Storm Water Pollution Prevention Plan review, filing, and inspection fee is part of a complete submittal to the SWCD. Fees are required to be submitted to the SWCD before the review process begins. Fees shall be established by the SWCD.

(b) The City Engineer may, at his discretion, have any Abbreviated Storm Water Pollution Prevention Plan reviewed by the SWCD. All fees associated with the SWCD review shall be the responsibility of the developer or owner.

(Ord. 35-2006. Passed 8-10-06.)

## 1195981.12 BOND.

If a Storm Water Pollution Prevention Plan or Abbreviated Storm Water Pollution Prevention Plan is required by this Chapter, soil disturbing activities shall not be permitted until a performance guarantee in the form of a performance bond, irrevocable letter of credit, or cash has been deposited with the

Director of Public Service. The bond amount shall be as established by the Director of Public Service. The performance guarantee will be used for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this Chapter and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this Chapter. The performance guarantee shall be returned after all work required by this Chapter has been completed and final stabilization has been reached, all as determined by the SWCD and/or City Engineer.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.13 ENFORCEMENT.

(a) All development areas will be subject to external inspections by the City and/or SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(b) After each external inspection, the City and/or SWCD may prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City may take action as detailed in Section 1195981.14 of this regulation.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.14 VIOLATIONS.

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) If it appears that a violation of any of these regulations has occurred, the owner and developer will be notified of deficiencies or non-compliance in writing by mail. If within 21 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, the deficiency or non-compliance shall be reported to the Director of Law for immediate enforcement of these regulations. Inspections by the City or SWCD do not relinquish the responsibility of the owner to comply with Ohio EPA NPDES inspection requirements.

(c) Upon notice, the Director of Law may suspend any active soil disturbing activity and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this Chapter. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Director of Law and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

(d) The City reserves the right to deny the issuance of any further plat approvals or building inspections for the property in question until the site is brought into compliance with this Chapter.

(Ord. 35-2006. Passed 8-10-06.)

#### 1195981.15 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this Chapter may appeal to the Court of Common Pleas.



(Ord. 35-2006. Passed 8-10-06.)

~~1195981~~.99 PENALTY.

(a) A violation of this Chapter is subject to the penalties and procedures set forth in Chapter 1199. Each day a violation occurs constitutes a separate offense.

(b) The imposition of any other penalties provided herein shall not preclude the City from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this Chapter or other applicable laws, ordinances, rules, or regulations, or the orders of the City.

(Ord. 35-2006. Passed 8-10-06.)

(Ord. 35-2006. Passed 8-10-06.)

981.99 PENALTY.

(a) A violation of this Chapter is subject to the penalties and procedures set forth in Chapter 1199. Each day a violation occurs constitutes a separate offense.

(b) The imposition of any other penalties provided herein shall not preclude the City from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this Chapter or other applicable laws, ordinances, rules, or regulations, or the orders of the City.

(Ord. 35-2006. Passed 8-10-06.)

AUTHORIZING THE MAYOR TO ENTER INTO A LEASE WITH SOUTHEAST AVENUE COMPANY, LLC, FOR 731 DUNBAR ROAD AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, Southeast Avenue Company, LLC, is the property owner of 731 Dunbar Road, Tallmadge, Ohio 44278, Parcel Number 6000313 (“Property”); and

WHEREAS, historically the Property was used by the Tallmadge City School District for the operation of primary school and included a playground and baseball field that was utilized by the community after school hours; and

WHEREAS, Southeast Avenue Company, LLC, plans to demolish the existing building, formerly used as a school, and desires to permit the continued use of the Property for use as a public park to be maintained and operated by the City; and

WHEREAS, the City desires to serve its residents and provide for park and recreation facilities at the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the Mayor is authorized to enter into a lease agreement and execute all necessary documents for Southeast Avenue Company, LLC, for 731 Dunbar Road, Tallmadge, Ohio 44278, Parcel Number 6000313, attached as Exhibit A.

SECTION 2. That the lease is subject to approval of the Board of Control.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
9/7/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_

AUTHORIZING THE APPROPRIATION AND ADVANCE OF FUNDS FOR PURPOSES OF THE FIRE STATION CONSTRUCTION PROJECT AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, Council authorized the Mayor to enter into a contract with Thomarios as construction manager for the construction of Fire Station #2; and

WHEREAS, the contract with Thomarios contains a contingency amount of \$406,560.50 or 5% of the contract price; and

WHEREAS, Ordinance 52-2021 authorized the issuance of bonds to fund the project; and

WHEREAS, the City will not be issuing bonds to fund any change orders that would be approved through the contingency; and

WHEREAS, the City would like to set aside these funds to ensure their availability if a change order becomes necessary; and

WHEREAS, any use of the contingency will be required to be approved by Board of Control; and

WHEREAS, any unspent contingency funds will be returned to the fund from which they were borrowed upon completion of the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That there is hereby appropriated and advanced from the General Fund #101 to the Safety Services Income Tax Fund #204 the sum of \$406,560.50.

SECTION 2. That there is hereby appropriated and advanced from the unappropriated balance of the Safety Services Income Tax Fund #204 to the Fire Station Construction Fund #303 the sum of \$406,560.50.

SECTION 3. That there is hereby appropriated from the unappropriated balance of the Fire Station Construction Fund #303 the sum of \$406,560.50.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
9/7/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_

AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND THE MAYOR TO ENTER INTO CONTRACT FOR CONDUIT INSTALLATION TO PHASE 4 OF THE TALLMADGE RESERVE FOR FUTURE FIBER OPTIC SERVICE AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, Council deems it to be in the best interest of the City to install Conduit to Phase 4 of the Tallmadge Reserve for future Fiber Optic services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the Mayor, acting through the Director of Public Service, is hereby authorized to advertise for bids and to contract with the lowest and best bidder upon proper approval by the Board of Control; for Conduit Installation to Phase 4 of the Tallmadge Reserve for future Fiber Optic Services with plans and specification now on file in the office of the Director of Public Service, which specification and herby specifically approved.

SECTION 2. That such written contract shall be awarded under the provisions of Tallmadge Codified Ordinance Chapter 143, and shall be approved as to form and correctness by the Director of Law and proper certification of funds by the Director of Finance.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
10/4/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_

AMENDING ORDINANCE 66-2013 RATES, CHARGES, AND FEES FOR THE ZONING DEPARTMENT AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, it is necessary to periodically review and establish rates, charges, and fees for various zoning permits.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the rates, charges, and fees as reflected on the "Schedule of Zoning Fees", attached hereto and incorporated herein as Exhibit A, are hereby adopted effective November 1, 2021.

SECTION 2. That all ordinances or portions thereof inconsistent herewith are hereby repealed.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
10/7/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_

# SCHEDULE OF ZONING FEES

[Approval Date]

*Outside Consultant Fees may apply and will be billed according to Section 1102.08 A (3) for collection prior to any reviews & approvals.*

## DEPARTMENT REVIEW & APPROVALS:

<b>ZONING APPLICATIONS &amp; CERTIFICATES</b>	<b>FEE</b>
Residential New Dwelling Construction	\$100.00
Residential Addition/Alteration	\$75.00
Residential Multi-Family (per dwelling)	\$50.00
Accessory Structures - Residential	
Accessory Structure ≤200 sq. feet	\$30.00
Accessory Structure >200 sq. feet	\$50.00
Accessory Ground-mounted Solar Energy Systems	\$30.00
Renewable Energy Equipment	\$30.00
Bike and Skateboard Ramps	\$30.00
Tennis Court	\$30.00
Temporary Construction Structure	\$30.00
Other per Section 1104.06 A	\$30.00
Residential Swimming Pool	\$30.00
Residential Deck	\$30.00
Fence / Wall	\$30.00
Commercial/Industrial Addition/Alteration*	\$75.00
Commercial/Industrial Accessory Structure*	\$50.00
Use & Compliance Certificates	
New Business	\$25.00
Columbarium	\$25.00
Outdoor Dining Permit	\$25.00
Temporary Outdoor Sales	\$25.00
Special Event/Activity	\$25.00
Home Occupation	\$25.00
Apiculture	\$25.00
Poultry/Fowl	\$25.00
Ungulates	\$25.00
<b>SIGN PERMITS* – Non - Residential</b>	<b>FEE</b>
New/Permanent	\$50.00
Modification of sign face	\$25.00
Limited Duration Sign	\$25.00
Temporary Sign (per 14 days)	\$15.00
<b>MISCELLANEOUS</b>	<b>FEE</b>
Demolition	\$100.00
Re-inspection / Special Inspection	\$35.00
<b>CONTRACTOR REGISTRATION</b>	<b>FEE</b>
New Registration (per calendar year)	\$100.00
Renewal (per calendar year)	\$50.00
<b>PEDDLERS &amp; SOLICITORS REGISTRATION</b>	<b>FEE</b>
30-day Certificate	\$25.00

*\* Applicable if not reviewed as part of a Site Plan Review*

**BOARDS/COMMISSIONS REVIEW & APPROVAL:**

<b>APPLICATIONS**</b>	<b>FEE</b>
Variance per request	\$500.00
plus for each additional request on same application	\$25.00
Appeal to BZA Decision / Inspection	\$100.00
Zoning Amendment (Map/Text)	\$1,000.00
Conditional Use	\$750.00
Site Plan Review	\$250.00
Similar Permitted / Conditional Use Certificate	\$100.00
Minor Modification of a Use or Site Plan of an Approved Conditional Use	\$100.00

*\*\* Upon approval by the approving body, the application includes the issuance of a Zoning Certificate.*

<b>DESIGN CONTROL OVERLAY DISTRICT</b>	<b>FEE</b>
Certificate of Appropriateness (Recognized structures)	
Residential / Principal	\$50.00
Residential / Accessory or Incidental	\$25.00
Non-Residential / Principal	\$50.00
Non-Residential / Accessory or Incidental	\$25.00
Certificate of Design Compliance (Located in Design Control District)	
Same as above	

<b>MAJOR SUBDIVISION</b>	<b>FEE</b>
Preliminary Plat Application for Major Subdivision	\$250.00
plus per lot or dwelling unit	\$20.00
Approved Plan Revisions for Major Subdivision	\$100.00
Final Plat Application for Major Subdivision, Conditional Use, Etc.	\$500.00
plus per lot or dwelling unit	\$20.00
Revision of Final Plat for Major Subdivision, Conditional Use, Etc.	\$250.00
Improvement Plan Review for Major Subdivision, Conditional Use, Etc.	\$500.00
plus per lot or dwelling unit	\$20.00
<small>The Plan Review Fees include the original submittal and one re-submittal. Each additional re-submittal will be an additional \$100.00.</small>	
Re-plat of Major Subdivision	\$250.00
plus per lot or dwelling unit	\$20.00
Minor Subdivisions per deed	\$50.00

**CONSULTANT/OTHER AGENCIES REVIEW & APPROVAL**

<b>APPLICATIONS</b>	<b>FEE</b>
Moving a Building/Structure on a public Right-of-Way (per day)	\$1,000.00
plus a bond of an amount established by Director of Public Service	tbd
Floodplain Development Permit	\$100.00
Grading Permit	\$50.00
Forest Management Plan	\$250.00



**SCHEDULE OF ZONING FEES  
(April, 2013)**

**SIGN PERMITS**

New/Permanent Non Residential	\$50.00
Modification of sign face	\$25.00
Temporary Sign (per 10 days)	\$15.00
Instructional Sign (per request)	\$15.00
Modification to Sign Variance	\$25.00

**DESIGN CONTROL OVERLAY DISTRICT**

Certificate of Appropriateness (Recognized structures)	
Residential / Principal	\$50.00
Residential / Accessory or Incidental	\$25.00
Non Residential / Principal	\$50.00
Non Residential / Accessory or Incidental	\$25.00
Certificate of Design Compliance (Located in Design Control District)	
Same as above	

**CONTRACTOR REGISTRATION**

New Registration (per calendar year)	\$100.00
Renewal (per calendar year)	\$50.00

**PEDDLERS & SOLICITORS REGISTRATION**

30-day Certificate	\$25.00
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**ZONING CERTIFICATES**

Residential New Construction	\$100.00
Residential Addition/Alteration	\$75.00
Residential Multi-Family (per dwelling)	\$50.00
Accessory Structure <200 sq. feet	\$30.00
Accessory Structure >200 sq. feet	\$50.00
Pool	\$30.00
Fence / Wall	\$30.00
Deck	\$30.00
Commercial New Construction	\$100.00
Commercial Addition/Alteration	\$75.00
Commercial Accessory Structure	\$50.00
Commercial Change of Use & Occupancy	\$50.00
Engineering Site Plan Review	
Without Storm Water Detention	\$200.00
With Storm Water Detention	\$300.00

*\*NOTE: All incurred outside consultant fees will be added to the above engineering site plan review fees. The above plan review fees include the original submittal and one re-submittal of plans. Each additional re-submittal will be an additional \$100.00.*

**MAJOR SUBDIVISION**

Preliminary Plat Application for Major Subdivision	\$250.00 plus \$20.00 per lot or dwelling unit plus incurred outside Consultant Fees
Approved Plan Revisions for Major Subdivision	\$100.00 plus incurred outside Consultant Fees
Final Plat Application for Major Subdivision, Conditional Use, Etc.	\$500.00 plus \$20.00 per lot or dwelling unit plus incurred outside Consultant Fees
Revision of Final Plat for Major Subdivision, Conditional Use, Etc.	\$250.00 plus incurred outside Consultant Fees
Improvement Plan Review for Major Subdivision, Conditional Use, Etc.	\$500.00 plus \$20.00 per lot or dwelling unit plus incurred outside Consultant Fees. The Plan Review Fees include the original submittal and one re-submittal. Each additional re-submittal will be an additional \$100.00.
Re-plat of Major Subdivision	\$250.00 plus \$20.00 per lot or dwelling unit plus incurred outside Consultant Fees.
Minor Subdivisions	\$50.00 per deed

**MISCELLANEOUS**

Riparian Setback Variance	\$100.00 plus outside Consultant Fees
Floodplain Development Permit Consultant Fees	\$100.00 plus outside Consultant Fees
Grading Permit	\$50.00

Demolition	\$100.00
Moving a Building/Structure on a public Right of Way	\$1,000 per day plus a
_____bond of an amount established by Director of Public Service	
Street Tree and Landscape Inspection	\$50.00 (up to
	\$10,000.00 of value)
	plus \$25.00 for each
	\$10,000.00 of value (or
	portion thereof) above
	\$10,000.00
Re-inspection / Special Inspection	\$35.00

**ZONING APPLICATION & PERMITS**

Variance (BZA)	\$250.00 for one request
	plus \$25.00 for each
	additional request on
	same application
Appeal to BZA Decision / Inspection	\$100.00
Zoning Amendment	\$500.00
Conditional Zoning	\$500.00
Conditional Zoning for Special Non-Residential Development	\$500.00
Site Plan Review	\$100.00
Similar Permitted / Conditional Use Certificate	\$50.00
Minor Modification of a Use or Site Plan of an	\$50.00
Approved Conditional Use	

# SCHEDULE OF ZONING FEES (re-ordered)

[date of adoption]

*Outside Consultant Fees may apply and will be billed according to Section 1102.08 A (3) for collection prior to any reviews & approvals.*

## DEPARTMENT REVIEW & APPROVALS:

<b>ZONING APPLICATIONS &amp; CERTIFICATES</b>	<b>FEE</b>
Residential New Dwelling Construction	\$100.00
Residential Addition/Alteration	\$75.00
Residential Multi-Family (per dwelling)	\$50.00
Accessory Structures - Residential	
Accessory Structure ≤200 sq. feet	\$30.00
Accessory Structure >200 sq. feet	\$50.00
Accessory Ground-mounted Solar Energy Systems	\$30.00
Renewable Energy Equipment	\$30.00
Bike and Skateboard Ramps	\$30.00
Tennis Court	\$30.00
Temporary Construction Structure	\$30.00
Other per Section 1104.06 A	\$30.00
Residential Swimming Pool	\$30.00
Residential Deck	\$30.00
Fence / Wall	\$30.00
<del>Commercial New Construction</del>	<del>\$100.00</del>
Commercial/Industrial Addition/Alteration*	\$75.00
Commercial/Industrial Accessory Structure*	\$50.00
<del>Commercial Change of Use &amp; Occupancy</del>	<del>\$50.00</del>
Use & Compliance Certificates	
New Business	\$25.00
Columbarium	\$25.00
Outdoor Dining Permit	\$25.00
Temporary Outdoor Sales	\$25.00
Special Event/Activity	\$25.00
Home Occupation	\$25.00
Apiculture	\$25.00
Poultry/Fowl	\$25.00
Ungulates	\$25.00
<b>SIGN PERMITS* – Non Residential</b>	<b>FEE</b>
New/Permanent <del>Non-Residential</del>	\$50.00
Modification of sign face	\$25.00
Limited Duration Sign	\$25.00
Temporary Sign (per 14 days)	\$15.00
<del>Instructional Sign (per request)</del>	<del>\$15.00</del>
<del>Modification to Sign Variance</del>	<del>\$25.00</del>

*\* Applicable if not reviewed as part of a Site Plan Review*

<b>MISCELLANEOUS</b>	<b>FEE</b>
Demolition	\$100.00
Re-inspection / Special Inspection	\$35.00
<b>CONTRACTOR REGISTRATION</b>	<b>FEE</b>
New Registration (per calendar year)	\$100.00
Renewal (per calendar year)	\$50.00
<b>PEDDLERS &amp; SOLICITORS REGISTRATION</b>	<b>FEE</b>
30-day Certificate	\$25.00

**ZONING APPLICATION & PERMITS**

BOARDS/COMMISSIONS REVIEW & APPROVAL:

<b>APPLICATIONS**</b>	<b>FEE</b>
Variance ( <del>BZA</del> ) per request	<del>\$250.00</del> 500.00
plus for each additional request on same application	\$25.00
Appeal to BZA Decision / Inspection	\$100.00
Zoning Amendment ( <del>Map/Text</del> )	<del>\$500.00</del> 1,000.00
Conditional Zoning Use	<del>\$500.00</del> 750.00
<del>Conditional Zoning for Special Non-Residential Development</del>	<del>\$500.00</del>
Site Plan Review	<del>\$100.00</del> 250.00
Similar Permitted / Conditional Use Certificate	<del>\$50.00</del> 100.00
Minor Modification of a Use or Site Plan of an Approved Conditional Use	<del>\$50.00</del> 100.00
<del>Riparian Setback Variance</del>	<del>\$100.00</del>
<del>plus outside Consultant Fees</del>	<del>tbd</del>

*\*\* Upon approval by the approving body, the application includes the issuance of a Zoning Certificate.*

<b>DESIGN CONTROL OVERLAY DISTRICT</b>	<b>FEE</b>
Certificate of Appropriateness (Recognized structures)	
Residential / Principal	\$50.00
Residential / Accessory or Incidental	\$25.00
Non-Residential / Principal	\$50.00
Non-Residential / Accessory or Incidental	\$25.00
Certificate of Design Compliance (Located in Design Control District)	
Same as above	

<b>MAJOR SUBDIVISION</b>	<b>FEE</b>
Preliminary Plat Application for Major Subdivision	\$250.00
plus per lot or dwelling unit	\$20.00
<del>plus incurred outside Consultant Fees</del>	<del>tbd</del>
Approved Plan Revisions for Major Subdivision	\$100.00
<del>plus incurred outside Consultant Fees</del>	<del>tbd</del>
Final Plat Application for Major Subdivision, Conditional Use, Etc.	\$500.00
plus per lot or dwelling unit	\$20.00
<del>plus incurred outside Consultant Fees</del>	<del>tbd</del>
Revision of Final Plat for Major Subdivision, Conditional Use, Etc.	\$250.00
<del>plus incurred outside Consultant Fees</del>	<del>tbd</del>
Improvement Plan Review for Major Subdivision, Conditional Use, Etc.	\$500.00

plus per lot or dwelling unit	\$20.00
<del>plus incurred outside Consultant Fees.</del>	<del>tbd</del>
The Plan Review Fees include the original submittal and one re-submittal. Each additional re-submittal will be an additional \$100.00.	
Re-plat of Major Subdivision	\$250.00
plus per lot or dwelling unit <del>plus incurred outside Consultant Fees.</del>	<del>\$20.00</del>
Minor Subdivisions per deed	\$50.00
<b>MISCELLANEOUS</b>	<b>FEE</b>
<del>Demolition</del>	<del>\$100.00</del>

CONSULTANT/OTHER AGENCIES REVIEW & APPROVAL

<b>APPLICATIONS</b>	<b>FEE</b>
<del>Engineering Site Plan Review</del>	
<del>without Storm Water Detention</del>	<del>\$200.00</del>
<del>with Storm Water Detention</del>	<del>\$300.00</del>
<del>*NOTE: All incurred outside consultant fees will be added to the above engineering site plan review fees. The above plan review fees include the original submittal and one re-submittal of plans. Each additional re-submittal will be an additional \$100.00.</del>	
Moving a Building/Structure on a public Right-of-Way (per day)	\$1,000.00
plus a bond of an amount established by Director of Public Service	tbd
<del>Street Tree and Landscape Inspection (up to \$10,000.00 of value)</del>	<del>\$50.00</del>
<del>plus for each \$10,000.00 of value (or portion thereof) above \$10,000.00</del>	<del>\$25.00</del>
Floodplain Development Permit	\$100.00
<del>plus outside Consultant Fees</del>	<del>tbd</del>
Grading Permit	\$50.00
Forest Management Plan	\$250.00

GRANTING AN ELECTRIC SERVICE EASEMENT FROM THE CITY OF TALLMADGE TO OHIO EDISON COMPANY, SAID EASEMENT BEING KNOWN AS PART OF PPN 6003866 AND PPN 6000495 AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, the City of Tallmadge and/or its designated representative is granting a part of PPN 6003866 and PPN 6000495 for electric service easement in the City of Tallmadge, Ohio; and

WHEREAS, this Council deems that the electric service easement serves the interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That a part of PPN 6003866 and PPN 6000495 is hereby granted to Ohio Edison Company for an electric service easement and is more fully described as follows:

Situated in the State of Ohio, County of Summit and being part of Original Tallmadge Township (T2N, R810W) Lot 4 Tract 12 and being more fully described as follows:

1. Beginning on the north line of Eastwood Ave. (60' R/W) at the east line of South Munroe Road (60' R/W);
2. Thence N 01° 16' 47" E, along the said east line of South Munroe Road, 385.30 feet to the True Place of Beginning for the easement intended to be described herein;
3. Thence S 87° 21' 26" E, 103.41 feet;
4. Thence S 60° 36' 44" E, 138.62 feet ;
5. Thence S 29° 04' 45" W, 34.54 feet;
6. Thence S 59° 50' 31" E to the terminus of the easement area intended to be described herein and subject to all highways, easements, and restrictions of record as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in September 2021.

Bearings are based on Grid North Ohio State Coordinate System, NAD83(2011)

The above described lands are contained within the limits of PPN 6003866, & 6000495.

SECTION 2. That the Mayor is hereby authorized and directed to execute all necessary documents associated with the granting of an electric service easement, including but not limited to Exhibit A.

SECTION 3. That all costs associated with the recording for the electric service easement shall be paid by the City of Tallmadge.

SECTION 4. That the Clerk of Council is hereby directed to deliver two (2) certified copies of this ordinance plus any filing fees to the Recorder of Summit County within ten (10) days of passage.

SECTION 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 6. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
9/16/21  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Carol A. Kilway, President of Council  
  
Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_



WR# \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:**

**That** City of Tallmadge

the Grantor(s), claiming title by virtue of instrument recorded in **RN# 56532958**

of the **Summit** County Records, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations received to its full satisfaction of OHIO EDISON COMPANY, an Ohio corporation, the Grantee, do(es) hereby grant unto Grantee, its successors and assigns, an easement and right of way, together with the rights and privileges hereinafter set forth, for lines for the distribution of electric current, including communication facilities, in , under and across the following described premises:

Situated in the City of Tallmadge County of Summit, State of Ohio and being part of lot 4 Tract12; Presently known as part of Summit County PPN 6003866 & 6000495.

With right to install underground electric distribution facilities upon, in, under and across the lands of Grantor, said underground electric facilities being installed within an easement, said easement being a ten (10.00) foot strip of land five (5.00) feet on either side of the installed cable as depicted on WR#\_\_\_\_\_ attached and made a part thereof; also.

Situated in the State of Ohio, County of Summit and being part of Original Tallmadge Township (T2N, R810W) Lot 4 Tract 12 and being more fully described as follows:

1. Beginning on the north line of Eastwood Ave. (60' R/W) at the east line of South Munroe Road (60' R/W);
2. Thence N 01° 16' 47" E, along the said east line of South Munroe Road, 385.30 feet to the True Place of Beginning for the easement intended to be described herein;
3. Thence S 87° 21' 26" E, 103.41 feet;
4. Thence S 60° 36' 44" E, 138.62 feet ;
5. Thence S 29° 04' 45" W, 34.54 feet;
6. Thence S 59° 50' 31" E to the terminus of the easement area intended to be described herein and subject to all highways, easements, and restrictions of record as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in September 2021.

Bearings are based on Grid North Ohio State Coordinate System, NAD83(2011)

The above described lands are contained within the limits of PPN 6003866, & 6000495.

Upon the request of the Grantor, its successors or assigns for future electric service, the Grantee, Ohio Edison Company, will have the right to extend said underground electric facilities wherever needed to provide future electric service thereon and with the right to extend electric facilities to the adjoining property, location of same to be by mutual agreement between Grantor and Grantee.

Grantor's right to use the right of way area is restricted to the grade established prior to the installation of such fixtures necessary for the underground distribution of electric current and no change in said grade may be made

without approval of the Grantee. If said change in grade requires change or relocation of Grantee's facilities, such change or relocation shall be at the expense of the Grantor.

In addition to said easement and right of way, the following rights are hereby granted to Ohio Edison Company:

- (1) To install, construct, inspect, operate, replace, repair, patrol, maintain and remove in, under and along said right of way across said premises such cables, wires, pipes, conduits, service pedestals, above-surface and sub-surface transformers, transformer pads, service hand-holes and other usual fixtures and appurtenances as may by Grantee be deemed necessary or become necessary for or in connection with the underground distribution of electric current, including communication facilities;
- (2) To enter and pass on, over and across any part of said lot(s) when reasonably necessary for access to and from said right of way, and to use the premises parallel to and adjoining the boundaries of said right of way
- (3) for piling dirt and for the operation of apparatus, appliances and equipment in exercising any of its rights enumerated herein
- (4) To trim, cut and remove at any and all times any trees, limbs, roots, underbrush or other obstructions within or near said right of way which may in the judgment of the Grantee interfere with, limit access to or endanger transformers, service pedestals, cables or their appurtenances, or their efficient operation;
- (5) To install, construct, inspect, operate, replace, repair, patrol, maintain and remove in, under and along said right of way and within the street limits cables, wires, pipes, conduits, street light standards and other usual fixtures and appurtenances as may by Grantee be deemed necessary or become necessary for in connection with the operation of street lights.

Grantor(s) reserve(s) the right to use the right of way area, but only for the purpose of planting grass, flowers and ornamental shrubbery and subject to Grantee's rights enumerated herein. In the event Grantee digs up the right of way or a portion thereof, or otherwise uses the right of way for any of the purposes herein enumerated, which requires the removal of said flowers or shrubbery, Grantee shall exercise ordinary care in removing and replanting them but will not assure the continues life of the flowers or shrubbery so removed and replanted.

**TO HAVE AND TO HOLD** the said easement, rights and right of way and its appurtenances unto said Grantee, its successors and assigns, forever; and the Grantor(s) represent(s) that it is the owner(s) of the above mentioned premises herein described.

**IN WITNESS WHEREOF,** \_\_\_\_\_ has/have executed this easement

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

**STATE OF OHIO COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

by \_\_\_\_\_, Grantor(s).

**SEAL**

---

Notary Public

Please print or stamp  
name and expiration date

**THIS SPACE IS RESERVED FOR  
RECORDER'S STAMP**