

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. 82 - 2011

6
7 AN ORDINANCE AMENDING SECTIONS 929.05 AND
8 929.06 OF TITLE FIVE, PART NINE OF THE
9 CODIFIED ORDINANCES, ENACTING NEW
10 SECTIONS 929.07, 929.08, 929.09, 929.10, 929.11
11 AND 929.12 THEREOF, RELATING TO STORM
12 WATER POLLUTION PREVENTION PLANS, AND
13 DECLARING AN EMERGENCY.
14

15 WHEREAS, discharges to the environment through the City's storm water
16 sewer system are subject to regulation under the National Pollutant Discharge
17 Elimination System (NPDES), administered by the Ohio Environmental
18 Protection Agency (Ohio EPA), and
19

20 WHEREAS, as a condition of the City's NPDES permit authority, federal
21 regulations administered by Ohio EPA mandate that the City implement
22 controls over inputs to the storm sewer system from construction site storm
23 water runoff, and implement long-term storm water management strategies for
24 new development and redevelopment projects impacting the system,
25

26 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of
27 Cuyahoga Falls, County of Summit, and State of Ohio, that:
28

29 Section 1. Sections 929.05 and 929.06 of the Codified Ordinances of the
30 City of Cuyahoga Falls are hereby amended to read in full as follows (new text
31 underlined; deleted text in ~~strikethrough~~):
32

33 929.05 CONSTRUCTION SITE STORM WATER RUNOFF CONTROL
34 EXCAVATION ACTIVITIES PROHIBITED WITHOUT PLAN.

35 ~~No person, corporation, organization or public agency shall initiate any~~
36 ~~land clearing, grubbing, land grading, earth moving, or development activities~~
37 ~~in an area in excess of one (1) acre without first preparing a Storm Water~~
38 ~~Pollution Prevention Plan and obtaining approval of the plan from the City~~
39 ~~Engineer. Said plan shall conform to regulations on file in the City Engineering~~
40 ~~Department.~~

41 (a) The requirements of this Section and of Sections 929.06 through
42 929.12 shall apply to the disturbance of any lot or parcel of land of one acre or
43 more, and to any lot or parcel of land less than one acre if the disturbance is
44 part of a larger common plan of development or sale disturbing one acre or
45 more.

46 (b) The discharge of construction site storm water runoff into the City's
47 storm water sewer system without a permit issued in accordance with this
48 Chapter, or in violation of a permit duly issued, is deemed an illicit discharge
49 under Section 929.03.

50 (c) For the purpose of this Chapter, "disturbance" and "soil disturbing
51 activity" means the clearing, grading, excavating, filling or other alteration of
52 land surface where natural or man-made cover is destroyed in a manner that
53 exposes the underlying soils. "Larger common plan of development or sale"
54 means a contiguous area where multiple separate and distinct construction
55 activities may take place at different times on different schedules, under one
56 plan.

57
58 929.06 EXCAVATION/GRADING PERMIT REQUIRED.

59 POST-CONSTRUCTION WATER QUALITY PRACTICES.

60 (a) No person, corporation, or other entity shall conduct any soil
61 disturbing activity on a lot or parcel of land specified in Section 929.05(a)
62 without first obtaining an Excavation/Grading Permit from the City Engineer.

63 (b) No person, corporation, or other entity shall conduct any soil
64 disturbing activity on a lot or parcel of land subject to a Permit issued under
65 this Chapter, after that permit has been revoked.

66 ~~-(a) Non Structural Water Quality Practices. — Non structural post~~
67 ~~construction best management practices include preservation, planning, or~~
68 ~~procedures that direct development away from water resources or limit creation~~
69 ~~of impervious surfaces. Practices such as conservation easements, riparian and~~
70 ~~wetland setbacks, and conservation subdivision design are all non structural~~
71 ~~controls.~~

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

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

78
79 ~~(b) Structural Water Quality Practices. — Structural post construction~~
80 ~~management practices are permanent features constructed to provide treatment~~
81 ~~of storm water runoff either through storage, filtration, or infiltration.~~

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

88 ~~(2) The post construction water quality practice must be maintained~~
89 ~~in perpetuity by those parties identified in the Storm Water Pollution Prevention~~
90 ~~Plan or the Storm Water Management Maintenance Agreement.~~

91
92 Section 2. New sections 929.07, 929.08, 929.09, 929.10, 929.11 and
93 929.12 of the Codified Ordinances of the City of Cuyahoga Falls are hereby
94 enacted to read in full as follows:

95
96 929.07 POST-CONSTRUCTION STORM WATER MANAGEMENT IN
97 NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS

98 The City Engineer is authorized to condition the issuance of an
99 Excavation/Grading Permit upon the agreement of the Owner of the lot or

100 parcel affected to implement and maintain Best Management Practices (BMPs),
101 as defined in Section 1124.03 of these Ordinances, for the purpose of
102 controlling runoff from new development and redevelopment projects for the life
103 of such projects. The form of agreement shall be approved by the Director of
104 Law and shall be known as a Storm Water Drainage Facilities Maintenance
105 Agreement. The Agreement shall ensure adequate long-term operation and
106 maintenance of the BMPs, and shall be recordable with the intent to bind
107 subsequent owners, transferees, mortgagees, and other parties in interest.

108
109 929.08 PERMIT APPLICATION; STORM WATER POLLUTION
110 PREVENTION PLAN.

111 The application for an Excavation/Grading Permit shall consist of the
112 application for a Storm Water Pollution Prevention Plan and associated
113 Checklist for Construction Activities in Summit County, promulgated by the
114 Summit Soil and Water Conservation District ("SSWCD"). Any person seeking
115 an Excavation/Grading Permit shall submit the required application materials
116 and supporting documents directly to SSWCD and shall pay any fees imposed
117 by SSWCD for the plan review.

118
119 929.09 ACTION ON APPLICATION; PERMIT ISSUANCE; PERMIT FEE.

120 Upon receipt of the reviewed application materials, comments and/or
121 recommendations from SSWCD, the City Engineer shall grant the
122 Excavation/Grading Permit, deny the permit, or grant the permit subject to
123 modifications appended by the City Engineer. The City Engineer shall require
124 that a permit fee of fifty dollars (\$50.00) be paid to the City prior to issuing any
125 permit under this Section. Every Excavation/Grading Permit granted shall
126 meet the following requirements:

127 (a) For the purpose of implementing construction site storm water
128 runoff control, the permit shall require conformance with the requirements for
129 Storm Water Pollution Prevention Plans set forth in the Ohio EPA General
130 Construction Permit effective April 21, 2008 (Ohio EPA Permit No. OHC000003),
131 or successor requirements.

132 (b) For post-construction storm water management in new
133 development or redevelopment projects, the permit shall require conformance
134 with the requirements for Storm Water Pollution Prevention Plans set forth in
135 Ohio EPA Permit No. OHC000003 and in Section 1124.03 of these Ordinances.
136 In the event these requirements conflict, the authority requiring the higher
137 performance standard shall apply.

138 (c) For post-construction storm water management in new
139 development or redevelopment projects, the permit shall require execution and
140 recording of a Storm Water Drainage Facilities Maintenance Agreement, for the
141 purpose of ensuring that Best Management Practices implemented pursuant to
142 the permit are in place and functioning to prevent or minimize water quality
143 impacts, for the life of the project.

144
145 929.10 EFFECT OF PERMIT; INSPECTIONS.

146 (a) Every Excavation/Grading Permit granted by the City Engineer
147 shall be deemed an approved Storm Water Pollution Prevention Plan for the lot
148 or parcel of land affected.

149 (b) Every Excavation/Grading Permit granted by the City Engineer,
150 once accepted by the Permittee, shall be deemed a right of entry granting the
151 Director of Public Service or her designee the authority to enter onto the Permit
152 premises at reasonable hours to inspect the prosecution of the work authorized
153 by the permit, and to assess compliance with the permit conditions.

154 (c) No person, and no Permittee, being in charge of a permit premises,
155 shall refuse to allow the Director of Public Service or her designee to enter the
156 permit premises for the purposes of inspection.

157
158 929.11 ENFORCEMENT; REVOCATION

159 (a) Whenever on the basis of an inspection the Director of Public
160 Service or her designee determines that the work authorized under an
161 Excavation/Grading Permit is proceeding contrary to or in violation of the
162 Permit, the Director or her designee may issue a Notice of Violation ("NOV") to
163 the Permittee and to any contractor or other person performing the work. The
164 NOV shall describe the variance between the permit requirements and the work
165 or conditions observed, and shall require correction of conditions and/or
166 removal and reconstruction of the improper work, as is necessary to restore
167 compliance with the Permit conditions.

168 (b) If corrections required by an NOV have not been fully implemented
169 within thirty (30) days after issuance, the Director of Public Service may order
170 all work authorized under the Permit to immediately cease until corrections
171 have been made.

172 (c) No person, and no Permittee, being in charge of a permit premises,
173 shall continue work under an Excavation/Grading Permit in violation of a stop
174 work order issued under this Section.

175 (d) An Excavation/Grading Permit may be revoked by the City
176 Engineer if the Permittee or any person or contractor performing work
177 authorized by the Permit fails to make timely corrections to work as specified in
178 an NOV, or continues to work after a stop work order has been issued by the
179 Director of Public Service.

180
181 929.12 APPEALS.

182 Any person aggrieved by a decision made by the City Engineer, the Director
183 of Public Service, or their designees under Sections 929.05 through 929.11 may
184 file an appeal with the Board of Building Appeals ("Board") within thirty (30)
185 days after the decision. The Board shall have jurisdiction to affirm, reverse or
186 modify any such decision pursuant to its jurisdiction under Section 1307.04 of
187 these Ordinances. The filing of an appeal does not by itself suspend or nullify
188 any order made and in effect, and does not authorize any work that would
189 otherwise be unauthorized or unpermitted.

190
191 Section 3. Existing Section 929.05 of the Codified Ordinances, as enacted
192 by Ord. No. 89-2003, passed June 9, 2003, and existing Section 929.06 of the
193 Codified Ordinances, as enacted by Ord. No. 30-2006, passed February 27,
194 2006, are hereby repealed.

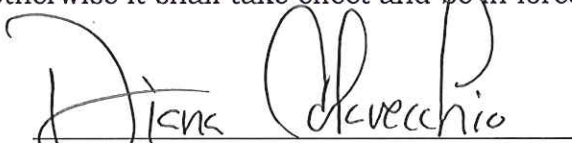
195
196 Section 4. Any ordinances or resolutions or portions of ordinances and
197 resolutions inconsistent herewith are hereby repealed, but any ordinances and

198 resolutions not inconsistent herewith and which have not previously been
199 repealed are hereby ratified and confirmed.


200
201 Section 5. It is found and determined that all formal actions of this
202 Council concerning and relating to the passage of this ordinance were taken in
203 an open meeting of this Council and that all deliberations of this Council and of
204 any committees that resulted in those formal actions were in meetings open to
205 the public, in compliance with all legal requirements including Chapter 107 of
206 the Codified Ordinances.

207
208 Section 6. This ordinance is hereby declared to be an emergency measure
209 necessary for the preservation of the public peace, health, safety, convenience
210 and welfare of the City of Cuyahoga Falls and the inhabitants thereof, and
211 provided it receives the affirmative vote of two-thirds of the members elected or
212 appointed to Council, it shall take effect and be in force immediately upon its
213 passage and approval by the Mayor; otherwise it shall take effect and be in force
214 at the earliest period allowed by law.

215
216
217 Passed: 10-24-11



President of Council

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219
220
221 
222 Clerk of Council

223
224
225 Approved 10/28/11
226 
227 _____
228 Mayor

229 10/10/11

230 O:\2011ords\amend-929.05 et seq. Storm Drainage Utility.doc