

**ORDINANCE NO. 19-143  
INTRODUCED BY COUNCIL**

**AN ORDINANCE AMENDING CHAPTER 924.11(e) OF THE CITY OF  
ZANESVILLE'S CODIFIED ORDINANCES REGARDING SPECIAL CHARGES  
AND ASSESSMENTS.**

**WHEREAS**, the City charges sanitary sewer capacity fees to assure that customers connecting their system pay their share of the sewer system and treatment plant cost required to convey and treat their wastewater; and

**WHEREAS**, the current codified language does not provide consideration of crediting an existing commercial/industrial facility that is already connected to the sanitary system, for their capacity connection when desiring to increase their discharge capacity; and

**WHEREAS**, recognizing existing sewer capacities and providing our customers a credit is a simple tool in encouraging redevelopment in the City.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Zanesville, State of Ohio, that:

**SECTION ONE:** Section 924.11(e) of the Zanesville Codified Ordinances which currently reads:

**(e) Commercial or Industrial Capacity Fee.**

(1) For the purpose of tapping into such Y branches already provided and using interceptor sewers for the disposal of sanitary sewage, each commercial, industrial and special type property owner shall pay, in addition to charges customarily made, a sum to be determined by the Division of Engineering and Construction of the City, based on uniform standards, such sum to be not less than one thousand five hundred seventy dollars (\$1,570) and shall be based on the equivalent dwelling units of 250 gallons per day (gpd) per unit. Industry would require consideration on a case by case basis and would consider one Equivalent Dwelling Unit (EDU) as not only the flow of 250 gpd but also the wastewater strength of 200 mg/l Biochemical Oxygen Demand (BOD) and 250 mg/l Suspended Solids (SS). Therefore, one EDU would equal 0.417 pounds of BOD and 0.521 pounds of SS. Such sum shall be deposited to the benefit of the Sewage Revenue Fund account, or to the Construction Fund for the service sewers being constructed, where such is the case.

**Shall be amended to reads as follows:**

**(e) Commercial or Industrial Capacity Fee.**

(1) For the purpose of tapping into such Y branches already provided and using interceptor sewers for the disposal of sanitary sewage, each commercial, industrial and special type property owner shall pay, in addition to charges customarily made, a sum to be determined by the Division of Engineering and Construction of the City, based on uniform standards, such sum to be not less than one thousand five hundred seventy dollars (\$1,570) and shall be based on the equivalent dwelling units of 250 gallons per day (gpd) per unit. Industry would require consideration on a case by case basis and would consider one Equivalent Dwelling Unit (EDU) as not only the flow of 250 gpd but also the wastewater strength of 200 mg/l Biochemical Oxygen Demand (BOD) and 250 mg/l Suspended Solids (SS). Therefore, one EDU would equal 0.417 pounds of BOD and 0.521 pounds of SS. Such sum shall be deposited to the benefit of the Sewage Revenue Fund account, or to the Construction Fund for the service sewers being constructed, where such is the case.

(2) Credits for existing sewer service capacity fees can be provided for redevelopment and change in use when there is a requested increase in capacity use only on the specific property. Such credit will be given when increasing the equivalent dwelling units.

In determining the credit, the customer's existing capacity shall be compared to their proposed (expanded) capacity (e.g. equivalent dwelling units). Existing capacity for purposes of valuing the credit shall be established at the City's then current value of the amount of capacity at the time of the application for credit. The difference between the value of the full (requested) capacity and the redevelopment capacity credit shall be paid to the City at the current rate.

Capacity credits shall be provided to a customer that is properly and legally connected to the sewer system, even if no sewer capacity fees had been previously paid for the property. The customer's existing capacity for purposes of establishing a redevelopment (capacity) credit shall be the lesser of the current value of capacity at the time of the application for credit or the value of capacity documented in a previously executed agreement between the City and the customer.

Refunds or credits for existing water and sewer service capacity fees will not be given when reducing the equivalent dwelling units loading. The original capacity shall remain with the property and available for use. Capacity and capacity (fee) credits shall remain with the property only and are non-transferable to any other property.

**SECTION TWO:** This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_, 2020

ATTEST: \_\_\_\_\_  
SUSAN CULBERTSON,  
Clerk of Council

\_\_\_\_\_  
DANIEL M. VINCENT,  
President of Council

APPROVED: \_\_\_\_\_, 2020

\_\_\_\_\_  
DONALD MASON,  
Mayor

THIS LEGISLATION APPROVED  
AS TO FORM  
  
\_\_\_\_\_  
LAW DIRECTOR'S OFFICE

**ORDINANCE NO. 19 – 144**  
**INTRODUCED BY COUNCIL**

**AN ORDINANCE AUTHORIZING AN ENCROACHMENT OF A CITY RIGHT-OF-WAY.**

**WHEREAS**, GRM PROPERTIES LLC owns Parcel # 81-65-03-02-000, currently known as 330 Main Street Zanesville, Ohio; and

**WHEREAS**, the office building has an existing rear exit doorway which does not have a stairway down to the public right-of-way; and

**WHEREAS**, GRM has leased said property and it was discovered during the building renovations plan review that the property owner must construct a small stairway off of the rear exit, which will encroach approximately 42” into the public right-of-way; and

**WHEREAS**, during investigation, City staff noted several existing structures encroaching within the same public right-of-way; and

**WHEREAS**, at their November 12, 2019 meeting, the City Council concurred with Traffic Order 19-09 effectively closing the “alley” (behind 330 Main Street) to all vehicular traffic.

**WHEREAS**, City staff is not aware of any plans to improve said right of way and has no objection to allowing said encroachment, subject to certain conditions.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Zanesville, State of Ohio, that:

**SECTION 1:** The City of Zanesville hereby acknowledges that there will be an encroachment of a structure associated with Muskingum County Parcel # 81-65-03-02-000, located adjacent to the public right-of-way.

**SECTION 2:** The City Council hereby permits such encroachment subject to the property owner’s execution of a Hold Harmless Agreement, attached as “Exhibit A”.

**SECTION 3:** That these permissions for the Encroachment shall continue until such time as those portions of the structure encroaching within the public right of way are destroyed, removed, no longer in use, not continuously maintained by the Owner/User, or the City of Zanesville has use for the Right of Way. Nothing in this Ordinance shall be construed either: to allow the installation by Owner/User of any above ground or below ground structure other than the portions of garage within the right of way; or to allow any greater encroachment beyond the dimensions and spatial areas shown “Exhibit A”.

**SECTION 4:** This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

**PASSED:** \_\_\_\_\_, 2019

**ATTEST:** \_\_\_\_\_  
Susan Culbertson  
Clerk of Council

\_\_\_\_\_  
Daniel M. Vincent  
President of Council

**APPROVED:** \_\_\_\_\_, 2019

\_\_\_\_\_  
Jeff Tilton, Mayor

**THIS LEGISLATION APPROVED  
AS TO FORM**

  
\_\_\_\_\_  
**LAW DIRECTOR'S OFFICE**

**WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT  
for access to and use of City of Zanesville Right of Way**

Whereas, GRM PROPERTIES LLC, whose address is 2746 Deer Path Drive Duncan Falls, Ohio 43734, is the owner of real property and improvements described as Muskingum County Parcel # 81-65-03-02-000, requesting authorization for an encroachment for construction of a stairway from the rear exit of 330 Main Street into the City of Zanesville right-of-way; and

Whereas, the City of Zanesville adopted Ordinance No. 19 -144 authorizing such request, subject to GRM PROPERTIES LLC executing a Hold Harmless Agreement.

In consideration for receiving permission to encroach upon the City of Zanesville right-of-way, described as the public right-of-way behind Parcel 81-65-03-02-000, further identified in Attachment A:

1. I hereby RELEASE, WAIVE, DISCHARGE AND COVENANT NOT TO SUE, The City of Zanesville, their officers, agents, servants, or employees (hereinafter referred to as RELEASEES) from any and all liability, claims, demands, actions and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that may be sustained by me, or any of the property belonging to me, WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES, or otherwise, while participating in such use, or while in, on or upon the premises where the use is occurring.
2. I am fully aware of the unusual risks involved and hazards connected with any kind of use of the City of Zanesville property. I VOLUNTARILY ASSUME FULL RESPONSIBILITY FOR ANY RISKS OF LOSS, PROPERTY DAMAGE OR PERSONAL INJURY INCLUDING DEATH, that may be sustained by me, or any loss or damage of property owned by me, as a result of being engaged in such activity, WHETHER CAUSED BY THE NEGLIGENCE OF RELEASEES OR OTHERWISE.
3. I further hereby AGREE TO INDEMNIFY AND HOLD HARMLESS the RELEASEES from any loss, liability, damage or costs, including court costs and attorney fees, that they may incur due to my use of said right of way, or my invited guests or other users of the area described in "Exhibit A", WHETHER CAUSED BY NEGLIGENCE OF RELEASEES or otherwise.
4. I understand that City of Zanesville will not be responsible to maintain any insurance policy, covering any circumstance arising from my participation in the use of the City of Zanesville property. As such, I am aware that I should review my personal insurance portfolio.
5. It is my express intent that this Waiver of Liability and Hold Harmless Agreement shall bind the members of my family and spouse, if I am alive, and my heirs, assigns and personal representative, if I am deceased, and shall be deemed as a RELEASE, WAIVER, DISCHARGE AND COVENANT NOT TO USE SUE the above-named RELEASEES. I hereby further agree that this Waiver of Liability and Hold Harmless Agreement shall be construed in accordance with the laws of the State of Ohio.
6. IN SIGNING THIS RELEASE, I ACKNOWLEDGE AND REPRESENT THAT I have read the foregoing Waiver of Liability and Hold Harmless Agreement, understand it and sign it voluntarily as my own free act and deed; no oral representations, statements, or inducements, apart from the foregoing written agreement, have been made; I am at least eighteen (18) years of age and fully

Attachment to Ordinance No. 19-144

competent; and I execute this Release for full, adequate and complete consideration fully intending to be bound by same.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

GRCM PROPERTIES LLC \_\_\_\_\_  
Printed Name Signature

County of Muskingum  
State of Ohio,

Now before me, a duly authorized Notary Public for the State of Ohio, came Judith Thomas, who swears and affirms that she signed the foregoing document of her own free act and deed.

\_\_\_\_\_  
Notary Public

**ATTACHMENT A**

Situated in the City of Zanesville, County of Muskingum, and State of Ohio, and bounded and described as follows:

The west half of Lot Numbered Five (5) in McLaughlin's Subdivision of Lots Nine (9), Ten (10), and Eleven (11) in Square numbered Eight (8) in the town, now City, of Zanesville, as delineated upon the plat recorded in Record of Deeds for Muskingum County, Ohio, in Book B, Page 492 Excepting thereout and therefrom a strip nine (9) inches wide off the West side of said Lot Five (5) conveyed by John A. Adams in his life time to Daniel Applegate by deed duly recorded.

Auditor's Parcel No. 81-65-03-02-000



**ORDINANCE NO. 19-145  
INTRODUCED BY COUNCIL**

**AN ORDINANCE AMENDING CHAPTER 1115 OF THE CITY  
OF ZANESVILLE'S CODIFIED ORDINANCES, REGARDING  
VARIANCES.**

**WHEREAS**, through a review of the Planning and Zoning Code, the Community Development Department has identified areas to update the section; and

**WHEREAS**, the Community Development Department has identified that amendments to Chapter 1115 would give increased flexibility to developers; and

**WHEREAS**, after testimony and discussion the Zanesville Planning Commission recommended to City Council that the amendment to Chapter 1115, be approved.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Zanesville, State of Ohio, that:

**SECTION ONE:** Chapter 1115 of the City of Zanesville Codified Ordinances reads as follows:

**1115.01 PURPOSE.**

Because of special characteristics of particular properties in the City, the literal application of the provisions of this Zoning Code may in certain instances create hardships not intended by these regulations. The Board of Zoning Appeals may accordingly grant variances from the literal application of the provisions of this Code based on findings of fact as provided in this chapter. Variances herein shall be considered the same as variations under the Ohio Revised Code.

(Ord. 87-94. Passed 7-27-87.)

**1115.02 APPROVAL PROCESS.**

Variances shall be approved only in conformance with the approval process provided in Chapter 1113 and the approval criteria in Table 4, Section 1115.06. Minor variances may be reviewed and approved by the Planning & Zoning Administrator or referred to the Board of Zoning Appeals for cause.

(Ord. 18-76. Passed 7-23-18.)

**1115.03 USE VARIANCES.**

No variance shall be granted in whole or in part the effect of which would be substantially equivalent to a change in zoning classification of a property, or that would permit any use not otherwise permitted in the applicable district. If the Zoning Board of Appeals finds that an amendment to this Zoning Code rather than a variance is necessary to grant an applicant relief, it shall so advise the applicant. The Planning Commission may hear a subsequent application for such amendment notwithstanding the provision on resubmission in Section 1113.09.

(Ord. 87-94. Passed 7-27-87.)

**1115.04 MINOR VARIANCES.**

The purpose of minor variance procedures is to reduce the time and expense to applicants obtaining approval of simple variances that are likely to have minimal adverse impact.

The fee owner, contract purchaser or option holder of one parcel or lot that wishes to request a variance for that property may apply under minor variance procedures.

Filing submissions shall be as determined on a case-by-case basis by the Planning & Zoning Administrator and may be less than required for other variances in Table 1, Section 1113.13. The Planning & Zoning Administrator may refer any Minor variance to the Board of Zoning Appeals for cause. Minor variance procedures shall not apply to an application involving more than one residential dwelling or more than one commercial parcel. The applicant has the right to appeal a Minor Variance decision to the Board of Zoning Appeals.