

Exhibit A

CHAPTER 942
Surface Water Management District

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942.01 PURPOSE.

The Ohio Revised Code authorizes the County to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of a public enterprise, including structural and natural surface water facilities and/or improvements and drainage systems of all types, to furnish service to the County and its citizens and property owners to address water quality as required under phase II of the storm water program of the national pollutant discharge elimination system established in 40CFR Part 122.

The purpose of this Chapter is to establish guidelines and standards for the operation of a countywide Surface Water Management District as provided by Chapter 6117 of the Ohio Revised Code in the unincorporated political subdivisions of the County and in those incorporated political subdivisions that have adopted legislation authorizing participation under this Chapter.

942.02 DEFINITIONS.

For purposes of this Chapter, the following words, terms, and phrases shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

- (a) "Drainage System" shall mean natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, wetlands, branches, reservoirs, ponds, drainage ways, inlets, catch basins, gutters, pipes, culverts, bridges, head walls, storm sewers, lakes, and other physical works, properties, and improvements that transfer, control, convey or otherwise influence the movement of surface water runoff.

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- (b) "Service Area" shall mean all land within the corporate limits of the County that is also within the limits of the unincorporated areas of the County and incorporated areas wherein the municipal legislative authority has adopted legislation authorizing participation under this Chapter.
- (c) "Storm water" shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- (d) "Surface Water" shall mean any flow, including, but not limited to, Stormwater or other flow occurring in the Drainage System.
- (e) "Surface Water Facility and/or Improvement" shall mean projects that are undertaken and constructed by the District which are designed to protect, restore, and/or manage Surface Water quality and/or quantity. Surface Water Facility and/or Improvement specifically does not include maintenance or repair of a Drainage System that was undertaken and constructed by a third party and dedicated to the County pursuant to Ohio Revised Code Section 6131.63 and that is assessed pursuant to Ohio Revised Code Chapter 6137 and Chapter 1109 of these Codified Ordinances, related to subdivision Drainage Systems.
- (f) "Surface Water Management Program" shall mean an identified set of measures and activities designed to protect, restore, and/or manage Surface Water quality by controlling and/or reducing pollutants; and to reduce and/or manage Surface Water quantity by controlling velocity, volume, and/or rate.
- (g) "Surface Water Management Service Charge" shall mean the rates and charges applicable to any real property located within the Service Area as approved from time to time by County Council.
- (h) "Surface Water Management District", "SWMD" or "District" shall mean the organizational structure created by this Chapter that is responsible for funding, administering, and operating the County's Surface Water Management Program in the Service Area established pursuant to this Chapter, and financially supported through the Surface Water Management Service Charge or other appropriations approved by County Council.

942.03 JURISDICTION.

The Surface Water Management District shall have jurisdiction over the administration of Chapter 944 of these Codified Ordinances, the Rules and Regulations contained in the Appendix to this Chapter, administration of the County's Municipal Separate Storm Sewer System (MS4) permit, planning, programming, performance, construction and maintenance of all Surface Water Facilities and/or Improvements within the Service Area, pursuant to and subject to the provisions of this Chapter, provided, however, that any Drainage System that is directly related to a subdivision that has been, or will be, dedicated to the County pursuant to Ohio Revised Code Section 6131.63 and is, or will be, assessed for the repair and maintenance of such Drainage System pursuant to Ohio Revised Code Chapter 6137 and Chapter 1109 of these Codified Ordinances shall continue to be performed by the County Engineer independent of the District. In the

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event that the District proposes a Surface Water Facility and/or Improvement that is also partly located outside of the Service Area, the County maintains the right to advance the project through any means authorized by the Ohio Revised Code or other applicable law for that portion of the project outside of the Service Area.

A village, or city may be included in the Service Area by the filing of a duly authorized resolution of the legislative authority of the village, or city with the Clerk of County Council and the County Engineer. Said resolution shall request participation under this Chapter for the territory of such political subdivision. The resolution must be received by the first day of July for inclusion in the Service Area in the next billing cycle of that same year. Upon receipt of such a resolution, County Council shall consider the request and determine whether to include the political subdivision in the Service Area, which shall be approved by County Council.

The following municipalities are included in the Service Area pursuant to legislation adopted by each municipality and approved by County Council: City of Reminderville, Village of Lakemore, Village of Clinton, and Village of Boston Heights.

942.04 GOVERNANCE.

(a) The County Engineer shall be responsible for the day-to-day administration of the District and the Surface Water Management Program, which shall include, but not be limited to:

(1) Overseeing, managing and administering the performance, construction and maintenance of all Surface Water Facilities and/or Improvements within the Service Area.

(2) Overseeing, managing and administering all necessary service functions associated with the District.

(3) Overseeing and performing the general administrative functions, including promulgating rules and regulations, necessary for the ongoing operation of the District and Surface Water Management Program.

(4) Hiring and assigning staff, as needed, to perform the administrative, engineering, project implementation and service functions of the District. Said staff shall be employees and/or appointees of the County Engineer's Office and shall be governed by Part One of these Codified Ordinances.

(5) Procuring goods and services through contracts necessary for the performance, construction and maintenance of Surface Water Facilities and/or Improvements and the administration of the District, provided that the same shall be procured in compliance with Chapter 177 of these Codified Ordinances, and are subject to approval by County Council, where applicable, and execution by the Executive.

(6) Preparing a recommended annual operating and capital improvement budget for submittal to the County Executive.

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(7) Performing all other actions specifically assigned to the County Engineer by Chapter 942 of these Codified Ordinances.

(b) The County Executive is hereby authorized to execute an agreement with the County Engineer to fulfill the duties enumerated above and County Council hereby approves an increase in compensation to the County Engineer in the amount of five percent (5%) of the statutory salary of the County Engineer for the performance of those additional duties thus codifying the agreement authorized by Resolution Number 2002-128.

(c) The County Executive shall provide budgetary oversight to the District, including submittal of an annual operating budget and capital improvement budget to the County Council. County Council shall approve an annual operating budget and capital improvement budget in the same manner in which it approves the budget of other offices within the County.

(d) All contracts for the performance of any actions necessary to implement the Surface Water Management Program with any outside vendor or agency shall be procured and executed in compliance with the requirements and procedures set forth in the County Charter and Part One of these Codified Ordinances. The County may enter into contracts with any public or private entities that are located within or outside of the Service Area as are necessary to accomplish the objectives of Chapter 942 of these Codified Ordinances.

(e) The County Executive with the approval of County Council, may finance Surface Water Facilities and/or Improvements using any method authorized by law, including, but not limited to, any funding mechanism or source specified in Revised Code Chapters 6117, 6131 and 6133, and by the use of rates and charges collected pursuant to this Chapter 942, or any combination thereof.

(f) An Advisory Committee shall be established which shall consist of the County Executive (or designee), the President of County Council (or designee) and one representative of each of the member townships and municipalities. This committee shall meet at least semi-annually to review the projects and plans of the District, and to make recommendations about future projects to meet the District's objectives in each community.

942.05 SCHEDULE OF CHARGES AND FEES.

County Council has the authority to establish and revise from time to time a schedule of surface water management service rates and charges to be billed and collected as provided in Ohio Revised Code Section 6117.02 from all owners of real property within the Service Area to fund the Surface Water Management Program and the operation of the Surface Water Management District. All property in the Surface Water Management District shall be charged in accordance with the methodology contained in this chapter subject to exemptions listed in section 942.08. No appeal under section 942.09 below shall be permitted of rates established pursuant to this section. County Council may also fund the District by appropriation of funds as it determines necessary.

942.06 BILLING AND COLLECTION.

Billing and collection of the Surface Water Management Service Charge and any other fee set forth in Section 942.05 of these Codified Ordinances shall be collected semi-annually with real estate taxes as provided in R.C. 6117.02(D).

942.07 DISPOSITION OF SERVICE CHARGES AND FEES.

All money received from Surface Water Management Service Charges and other fees under the provisions of this Chapter shall be credited to a Surface Water Management Fund.

Interest earned on money held within the Surface Water Management Fund shall be credited to that fund.

The Executive, on behalf of the District, shall be authorized to make grants to each participating community.

942.08 EXEMPTIONS.

The following property shall be exempt from payment of the Surface Water Management Service Charge set forth in Section 942.05.

- (a) Public road rights-of-way that have been conveyed to and accepted for maintenance by the Ohio Department of Transportation, the Ohio Turnpike Authority or entities contracted by the State of Ohio for the operation of toll roads, and that are available for use by the general public for transportation purposes.
- (b) Public road rights-of-way that have been conveyed to and accepted for maintenance by municipal corporations or townships within the County, and that are available for use by the general public for transportation purposes.
- (c) Public road rights-of-way that have been conveyed to and accepted for maintenance by the County of Summit, and that are available for use by the general public for transportation purposes.
- (d) Railroad rights-of-way used for trackage and related appurtenances.
- (e) Any property specifically exempted from fees and charges by the Ohio Constitution, Ohio Revised Code or Ohio Administrative Code.
- (f) Any property specifically exempted from fees and charges by the Constitution of the United States, the United States Code or the Code of Federal Regulations.

942.09 APPEAL PROCEDURE; HEARING AND DECISION.

(a) Any person aggrieved or adversely affected by any action taken or determination made pursuant to this Chapter shall have a right to request an administrative hearing before a Review Board. No appeal shall be permitted of rates established pursuant to Section 942.05 above. The County Council President shall appoint three (3) members from the Advisory Council to serve on the Review Board. The applicant shall file notice in writing with County Council and the Engineer of the applicant's intention to appeal the

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District's decision which has impacted the applicant to the Review Board. The Council President shall schedule such appeal hearing and notify the applicant as to the place, date, and time within thirty (30) days after notification. After a hearing on the matter, the Review Board may sustain, disapprove, or modify the decision of the District and such decision shall be final.

(b) The filing of an appeal and a request for a hearing does not automatically suspend or stay execution of the order, determination, or billing appealed from, but upon application by the appealing party, the County Engineer or his designee may suspend or stay execution of the order, determination, or billing upon such terms as deemed appropriate, pending determination of the appeal.

(c) The appealing party, County employees and any other interested person who has been granted permission to appear may present evidence, as the President of Council or his designee deems admissible. The President of Council or his designee may require the attendance of witnesses and the production of books, records and papers that are relevant to the matter being decided.

(d) After completion of the hearing, the Review Board shall issue a written decision containing the facts and conclusions upon which the decision is based. If the Review Board finds that the action or determination appealed from was lawful and reasonable, the order shall be affirmed. If the Review Board finds that the action or determination appealed from was unreasonable or unlawful, the order shall be vacated and a new action taken or determination made in compliance with the decision. A final decision and order made by the Review Board shall be considered an order of the District for purposes of this Section 942.09. A copy of the decision shall be mailed to each party participating in the appeal.

(e) Any person adversely affected by the decision of the Review Board may appeal to the Court of Common Pleas as provided by Ohio Revised Code Chapter 2506.

942.10 SPECIAL SURFACE WATER MANAGEMENT DISTRICT.

Sections 942.10 to 942.18 authorize a Special Surface Water Management District in Bath Township, which had adopted legislation authorizing participation under this Chapter prior to the amendment of Chapter 942 on 1-1-2022. These provisions authorize continuation of a service charge within this Special District to support projects benefitting the Special District and is in furtherance of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122. On July 1 2024 and the commencement of billings as set forth in Section 942.05, this Special Surface Water Management District shall be terminated.

942.11 SPECIAL DISTRICT DEFINITIONS.

For purposes of Sections 942.10 to 942.18 of this Chapter, the following words, terms, and phrases shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

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(a) "Agricultural Property" means a Zoned Lot or Tract containing Impervious Surface Area used for farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. Agricultural Property shall not include Undeveloped Land used for these purposes that does not contain Impervious Surface Area.

(b) "Conventionally Developed Residential Property" shall mean developed land occupied by a structure containing one-, two-, or three Dwelling Units, provided each Dwelling Unit is not identified as a separate parcel as in the case of a condominium or planned community, and provided that the parcel contains no significant nonresidential uses. Structures appurtenant to the Dwelling Units, such as detached garages and sheds, shall be disregarded in the ERU calculation of this type of property.

(c) "County Ditches" shall mean any ditch, drain or waterway established under Chapter 6131 of the Ohio Revised Code or Chapter 6133 of the Ohio Revised Code.

(d) "Developed Land" shall mean a Zoned Lot or Tract altered from its natural state to include impervious surface area.

(e) "Dwelling Unit" means a detached building or portion of a building that is designed and intended for use and occupancy for residential purposes by a single household or family.

(f) "Equivalent Rate Unit (ERU)" shall mean the measure of Impervious Surface Area on a Zoned Lot or Tract that is used by the County as the basis for calculating the Surface Water Management Service Charge and is equivalent to three thousand (3,000) square feet of Impervious Surface Area.

(g) "ERU Credits" shall mean on-going reductions in the Surface Water Management Service Charge applicable to a given Zoned Lot or Tract in recognition of Private Runoff Control Measures that are implemented and maintained in addition to those Surface Water Facilities and/or Improvements required by local zoning ordinances, local surface water regulations, County subdivision regulations, Summit Soil & Water Conservation District requirements, and any other local surface water management regulations.

(h) "Impervious Surface Area" shall mean developed areas of land that prevent or significantly impede the infiltration of Surface Water into the soil. Typical Impervious Surface Areas include, but are not limited to: roofs, sidewalks, walkways, patios, swimming pools, private driveways, parking lots, access extensions, alleys and other paved, engineered, compacted or gravel surfaces containing materials that prevent or significantly impede the natural infiltration of Surface Water into the soil.

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(i) "Natural State" shall describe existing land, water, soil, and vegetation characteristics that have not been substantially modified or disturbed by the construction or placement of Impervious Surfaces Areas on the land.

(j) "Private Runoff Control Measures" shall mean Surface Water Facilities and/or Improvements that are constructed and/or maintained by a property owner that provide measurable benefit to Surface Water management and/or control.

(k) "Special Service Area" shall mean all land within Bath Township.

(l) "Special Surface Water Management Service Charge" or "Special Service Charge" shall mean a service charge, applicable to a Zoned Lot or Tract, that generally reflects the impact on or demand for the Surface Water Management Program provided by the County under this Chapter to properly control and manage Surface Water runoff quality and/or quantity associated with the Zoned Lot or Tract. The Special Surface Water Management Service Charge will vary from one Zoned Lot or Tract to another, based on the Impervious Surface Area as calculated in ERUs, less any applicable ERU Credits.

(m) "Special Surface Water Management District" or "Special District" shall mean the organizational structure created under this Chapter that is responsible for funding, administering, and operating the County's Surface Water Management Program in the Special Service Area established pursuant to this Chapter, and financially supported through the Special Surface Water Management Service Charge.

(n) "Tract" shall mean a parcel of land not previously recorded as a Zoned Lot.

(o) "Undeveloped Land" shall mean all land that is not altered from its Natural State.

(p) "Zoned Lot" shall mean a legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

942.12 GOVERNANCE.

(a) The County Engineer shall be responsible for the day-to-day administration of the Special District and the Surface Water Management Program. The County Engineer shall manage the funds collected from the Special Surface Water Management Service Charge for the benefit of the Special District, in addition to the funding received under Section 942.05. Governance of the Special District is subject to Section 942.04.

942.13 IMPERVIOUS SURFACE AREA AND EQUIVALENT RATE UNIT.

(a) The amount of impervious surface area on a given Zoned Lot or Tract shall be the determining factor in calculating the distribution of the cost of services associated with the planning, programming, performance, construction and maintenance of all Surface Water Facilities and/or Improvements within the Special Service Area and the extent of a Zoned Lot or Tract owner's obligation to pay for a portion of the same through the Special Service Charge because it (i) directly relates to the volume, rate and pollutant loading of Surface Water runoff discharged from that Zoned Lot or Tract to the County's Surface Water Drainage Systems and (ii) is voluntarily controllable by owners of Zoned

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Lots or Tracts in the development of the same and therefore provides an equitable and adequate system for determining estimated usage of Surface Water Facilities and/or Improvements.

(b) An impervious surface area of 3,000 square feet shall be designated as one (1) Equivalent Rate Unit (ERU) in order to maintain consistency with the prevailing unit adopted by communities within the County of Summit and northeast Ohio region for local surface water management.

(c) Each owner of a Zoned Lot or Tract of Developed Land within the Special Service Area shall pay a Special Service Charge that is calculated by multiplying the Special Surface Water Management Service Charge set forth in Section 942.14 times the number of ERUs that have been charged against that Zoned Lot or Tract.

(d) The County Engineer shall calculate the number of ERUs to be charged against each Zoned Lot or Tract of Developed Land within the Special Service Area based on the amount of Impervious Surface Area on that Zoned Lot or Tract prior to the billing and collection of any Special Service Charge as set forth in Sections 942.14 and 942.15, provided, however, that all Conventionally Developed Residential Property or Agricultural Property shall be charged the equivalent of one (1) ERU per Zoned Lot or Tract.

(f) With respect to a Zoned Lot or Tract of Developed Land other than Conventionally Developed Residential Property or Agricultural Property, if, due to construction, demolition, destruction and removal, or some other cause, a substantial change in impervious surface occurs on the Zoned Lot or Tract, an owner may notify the County Engineer of such change and request that the County Engineer recalculate the number of ERUs to be charged. The County Engineer shall notify the owner, in writing, of any change to the calculation of ERUs. Any owner that receives a notice of the calculation of ERUs by the County Engineer under this paragraph may appeal the calculation in the manner and method set forth in Section 942.09 of these Codified Ordinances.

(g) Notwithstanding Section 942.09(e), with respect to Conventionally Developed Residential Property, if, due to demolition, destruction, or some other cause, the Dwelling Units and appurtenant structures are removed such that the Zoned Lot or Tract no longer qualifies as Conventionally Developed Residential Property and instead qualifies as Undeveloped Land, an owner may notify the County Engineer of such change and request that the County Engineer recalculate the number of ERUs to be charged. The County Engineer shall notify the owner, in writing of any change to the calculation of ERUs. Any owner that receives a notice of the calculation of ERUs by the County Engineer under this paragraph may appeal the calculation in the manner and method set forth in Section 942.09 of these Codified Ordinances.

942.14 SCHEDULE OF CHARGES AND FEES.

(a) County Council has the authority to establish and revise from time to time a schedule of Special Service Charges to be billed and collected from all owners of Zoned Lots or

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Tracts of Developed Land within the Special Service Area to fund the Surface Water Management Program and the operation of the Special District.

(b) All Zoned Lots and Tracts within the Special Service Area, unless specifically exempted as set forth in Section 942.18 of these Codified Ordinances, shall be annually billed a Special Service Charge of \$4.00 per month, or at a rate otherwise set by County Council, for each ERU calculated by the County Engineer to be charged against that Zoned Lot or Tract pursuant to Section 942.13 of these Codified Ordinances. The Special Service Charge shall be used to fund and administer the Special District and Surface Water Management Program and to perform studies necessary for fulfilling these duties. County Council may establish and revise the Special Service Charge as necessary to properly fund and administer the Special District and Surface Water Management Program, provided that any increase in the Special Service Charge during the ten-year period after which the Special Service Area is first established shall not exceed, on a cumulative basis, a rate of increase greater than the Consumer Price Index for Urban Consumers (CPI-U) for that same period. County Council shall be permitted to increase the Special Service Charge in excess of the CPI-U if such increase is requested by a resolution of the legislative body of the political subdivision of the Special Service Area.

(c) Developed Land receiving a Homestead Exemption will be granted a twenty-five percent (25%) reduction in the Special Service Charge.

(d) Developed Land located in assessed subdivisions for which annual assessments pursuant to Revised Code Chapter 6137 are being charged will be granted a twenty-five percent (25%) reduction in the Special Service Charge. This reduction may be combined with the reduction for Homestead Exemption for a total fifty percent (50%) reduction in the Special Service Charge.

942.15 BILLING AND COLLECTION.

Billing and collection of the Surface Water Management Service Charge and any other fee set forth in Section 942.14 of these Codified Ordinances shall be administered by the County Engineer on behalf of the Special District and shall be billed on a July to June cycle. Pursuant to Section 6117.02(D) of the Ohio Revised Code, the Special Service Charge shall be paid semiannually with real estate taxes. The County Engineer shall provide the Summit County Fiscal Office with the information sufficient for the Fiscal Office to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge, and the County Engineer shall certify such information annually in August during the billing cycle based on the schedule established by the Fiscal Office for tax billings in the succeeding year. If the tax bill containing the Special Service Charge is not paid within the time set by law, late fees and penalties shall be charged with respect to the Special Surface Water Management Service Charge in the same manner as are charged on delinquent taxes. Such late fees and penalties shall be credited to the Special District when collected.

942.16 DISPOSITION OF SERVICE CHARGES AND FEES.

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All money received from Special Service Charges and other fees under Section 942.15 shall be credited to the Special Surface Water Management Fund. All Special Service Charges and other fees collected under Section 942.15 from Zoned Lots or Tracts within the Special Service Area shall be used for: (i) administration of the Special District and (ii) County Ditches, Drainage Systems, Surface Water Management Facilities and/or Improvements and/or Surface Water Management Programs that benefit Developed Land or Undeveloped Land within the Special Service Area. All Surface Water Management Service Charges and other fees collected under this Chapter that were billed prior to the revision of this Chapter in 2021 shall be exclusively used for projects benefitting Bath Township. The Special Service Area shall be considered to benefit under this provision where fees are used to improve or maintain a Drainage System, in whole or in part, that is within the Special Service Area or that conveys Surface Water flowing into or out of the Special Service Area. Interest earned on money held within the Special Surface Water Management Fund shall be credited to that fund.

942.17 CREDITS.

(a) Other than as provided in subsection (f), below, the number of ERUs charged against a Zoned Lot or Tract may be reduced, through the allocation of an ERU Credit, as a result of, and in recognition of, Private Runoff Control Measures being implemented and maintained for the benefit of the Zoned Lot or Tract that are in addition to those Surface Water Management Facilities and/or Improvements required by local zoning ordinances, local surface water regulations, County subdivision regulations, Summit Soil & Water Conservation District requirements, and any other local surface water management regulations. For each Zoned Lot or Tract in the Special Service Area that benefits from a Private Runoff Control Measure, the County Engineer shall calculate the number of ERU Credits that should be allocated to that Zoned Lot or Tract. The number of ERU Credits that are allocated to a Zoned Lot or Tract shall reduce the number of ERUs charged against that Zoned Lot or Tract under Section 942.13 of these Codified Ordinances, and the owner of the Zoned Lot or Tract shall only be billed, and shall only be obligated to pay, the difference between the number of ERUs charged against the Zoned Lot or Tract and the ERU Credits allocated to the Zoned Lot or Tract.

(b) The County Engineer shall notify in writing the owner of any Zoned Lot or Tract of the calculation of ERU Credits in the same manner and method and at the same time as required for the notification of the calculation of ERUs to be charged against the Zoned Lot or Tract, as set forth in Section 942.13 of these Codified Ordinances.

(c) At any time, the owner of any Zoned Lot or Tract that installs a new, or improves an existing, Private Runoff Control Measure that benefits that Zoned Lot or Tract may apply to the County Engineer for a calculation of ERU Credits to be allocated to that Zoned Lot or Tract. The County Engineer shall notify the owner in writing of his or her determination of the number of ERU Credits to be allocated to the Zoned Lot or Tract.

(d) In no event shall the number of ERU Credits allocated to a Zoned Lot or Tract reduce the total number of ERUs charged against that Zoned Lot or Tract below one (1) ERU.

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(e) Any ERU Credit may be revoked if any condition to the granting of the ERU Credit no longer exists or the Private Runoff Control Measure is not properly maintained and functioning.

(f) Conventionally Developed Residential Property or Agricultural Property are not eligible for ERU Credits.

(g) Any owner of a Zoned Lot or Tract that receives a notice of the calculation of ERU Credits by the County Engineer under this Section may appeal the calculation in the manner and method set forth in Section 942.09 of these Codified Ordinances.

942.18 EXEMPTIONS

In addition to the exemptions in set forth in Section 942.08, undeveloped land shall be exempt from the Special Service Charge.

942.19 IMMUNITY RESERVATION

The County of Summit reserves any and all immunities to which it is entitled under Chapter 2744 of the Ohio Revised Code or any other law. The County of Summit declares that activities engaged in pursuant to this Chapter of the Summit County Codified Ordinances are intended to fulfill a governmental function to comply with phase II of the storm water program of the national pollutant discharge elimination system established in 40CFR Part 122.

942.20 SEVERABILITY

The determination that any part of this Chapter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

Appendix A
Summit County Surface Water Management District
Rules and Regulations

1. PURPOSE AND SCOPE

The Summit County Surface Water Management District Program, the “Program” was established to provide a mechanism to manage and improve storm water facilities and storm water discharges, to protect surface and groundwater quality, reduce property damage due to excess storm water discharge, and to meet all requirements of the Federal Clean Water Act as regulated by the Ohio EPA for all surface water received by public right of way, county ditches and waters of the State of Ohio within the surface water management program service area, including each Minimum Control Measure (MCM) required for small Municipal Separate Storm Sewer Systems (MS4) and all requirements of Ohio EPA General Permit OHQ000004 and future updates as required by the National Pollutant Discharge Elimination System (NPDES). The County Engineer is charged with promulgating regulations for this purpose. The following rules and regulations are adopted in accordance with Chapter 942 of the Codified Ordinances of the County of Summit for the Surface Water Management Program to promote public health and safety, minimize public and private losses due to excess surface water discharges, and to protect surface waters and the natural function of floodplains.

2. SERVICE AREA

The Summit County Surface Water Management District service area (the “service area”) shall encompass all land within the corporate limits of the County that is also within the limits of the unincorporated areas of the County or those incorporated areas wherein the municipal legislative authority has adopted legislation authorizing participation under Chapter 942 of the Summit County Codified Ordinances.

3. DEFINITIONS

For purposes of these Rules and Regulations, the following words, terms, and phrases shall have the meanings given to them in Chapter 942 of the Codified Ordinances or these Rules and Regulations, except where the context clearly indicates a different meaning:

- (a) "BMP": Best management practice, either structural or non-structural, intended, operated and maintained to provide specific environmental and other surface water benefits. A structural BMP is a device or system installed or constructed to provide specific benefits. A non-structural BMP is a procedure or action that protects, preserves or enhances natural features that provide benefits, such as green infrastructure.
- (b) "CLEAN WATER ACT": Federal law formerly referred to as Federal Water Pollution Control Act Amendments of 1972 Pub. L. 92-500 and all subsequent amendments.
- (c) "EXCAVATION": The removal, stripping or disturbance of soil, earth, sand, rock, gravel or other similar substance from the ground and includes

- dredging, draining, unnaturally flooding or otherwise altering a waterway or wetland.
- (d) "FILLING": The placing of any soil, earth, sand, rock, gravel or other similar substance on the ground or within a waterway or wetland.
 - (e) "GRADING": Any operation involving excavation and/or filling.
 - (f) "GROUND": The surface of the earth, including, but not limited to, land below the banks and beds of any ditch, stream, river, pond, lake, or wetland.
 - (g) "HYDRIC SOILS": Soil types that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper part, or as otherwise defined by the United States Department of Agriculture.
 - (h) "LAND DEVELOPMENT REGULATIONS": All applicable building and environmental regulations, including, but not limited to, the Summit County Subdivision Regulations and/or Chapter 943 of the Codified Ordinances, "Comprehensive Stormwater Management".
 - (i) "MCM": Minimum Control Measure as required for MS4 NPDES permit.
 - (j) "MS4": Municipal separate storm sewer system, shall have the meaning stated under Federal law in 40 CFR 122.26(b)(8) and any subsequent amendment.
 - (k) "NON-FUNDED COUNTY DITCHES": Ditches, drains and watercourses where county easements were established and improvements made under the Ohio Revised Code ("ORC") Ditch Petition provisions in effect prior to the October 20, 1957 revision of ORC Chapters 6131 and 6137, where the responsibility for maintenance lies solely with the owners of the adjacent abutting properties.
 - (l) "NON-SUBDIVISION LAND DEVELOPMENT": The development or improvement of a parcel or parcels of land not subject to the provisions of the Summit County Subdivision Regulations, as set forth in Part 11 of the Codified Ordinances.
 - (m) "NPDES": National Pollutant Discharge Elimination System of permits required for all facilities discharging pollutants to waters of the State of Ohio.
 - (n) "Ohio EPA": The Ohio Environmental Protection Agency which is the state agency for issuing and enforcing MS4 NPDES permits in Ohio.
 - (o) "POLLUTANT": anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
 - (p) "POND": A body of water formed by excavation and/or damming.
 - (q) "PRIVATELY OWNED DITCH OR WATERWAY": Any ditch, swale or waterway located on private property not dedicated to and accepted by Summit County as a County Ditch or Non-Funded County Ditch under current or prior ditch laws.

- (r) "PROJECT": Work funded and undertaken by the Program pursuant to Chapter 942 of the Codified Ordinances.
- (s) "SUBDIVISION LAND DEVELOPMENT": The development of a parcel or parcels of land for the purpose of creating residential, commercial and/or institutional structures in accordance with the Summit County Subdivision Regulations.
- (t) "SURFACE WATER": Storm water runoff, snow melt runoff, and surface runoff and drainage.
- (u) "WATERS OF THE STATE OF OHIO": Any water feature subject to regulation by the State of Ohio as defined by the Ohio Revised Code (ORC) 6111.01 and includes all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and other bodies or accumulations of water, surface or underground, natural or artificial, regardless of the depth of the strata.
- (v) "WETLAND": An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Wetlands shall possess three essential characteristics: (1) Hydrophytic vegetation; (2) Hydric soils' and (3) Wetland hydrology.

4. PROJECT DEVELOPMENT

The County Engineer will initiate a public information campaign and a series of public meetings. The meetings will inform the public of the purpose and scope of Program responsibilities and provide opportunities for citizens and public officials to provide to the County Engineer their knowledge of areas subject to pollution and other storm water related problems within the Service Area. The County Engineer will analyze the needs of each neighborhood within the Service Area, develop estimates of cost for program work elements and improvements, and prioritize work in the form of a long-range and a short-term plan. A report of the County Engineer's findings and a proposed budget for accomplishing the work will be provided to each neighborhood within the Service Area, Additional public meetings may be held to receive comments on the resulting short-term and long-range work plan and budget. Project development is intended to be an ongoing process with priorities being revised as needs change.

5. MAINTENANCE OF COUNTY DITCHES, DRAINS AND WATER QUALITY/QUANTITY STRUCTURES

Maintenance of County ditch facilities established after October 20, 1957 under ORC Chapters 6131 and 6137 will continue to be performed utilizing the process and the funds collected in accordance with ORC Chapter 6137.

6. MAINTENANCE OF NON-FUNDED COUNTY DITCHES

Maintenance of non-funded County ditches shall be limited to the removal of logjams, beaver dams and debris that represent imminent cause of structure flooding. Where cleaning or reconstruction of more than 200 feet of such facilities would be

required to improve drainage flow conditions the process afforded under ORC Chapter 6131 may be utilized to establish the facility as a county ditch.

7. MAINTENANCE OF PRIVATELY OWNED DITCHES AND WATERWAYS

Privately owned ditches and waterways will not be eligible for funding from District funds unless the ditch or waterway is established as a county ditch utilizing the ditch petition process in ORC Chapters 6131 and 6137.

8. FACILITIES ESTABLISHED UTILIZING ORC 6131 AND 6137 DITCH PETITION PROCESS

Storm water drainage and management facilities appearing on the short-term or long-range plan may become public facilities managed, constructed and/or improved by the Program by petition filed by the local political subdivision of the Service Area or by any property owner within the Service Area. The cost of the administration of the ditch petition process may be paid from Program funds, including cost of public notices, preliminary studies, and design. Some or all cost which would be assessed per ORC Chapter 6131 to property owners within the Service Area of such improvements may be paid from Program funds. Political subdivisions outside the Service Area may similarly contribute financially to offset some or all of the cost which would be assessed to property owners within their neighborhood. Costs may also be reduced where funding can be secured from private, local, state and/or federal grant sources.

9. STREAMS, WATERWAYS AND DITCHES

Streams, waterways and ditches, including roadside ditches, shall remain open and free flowing unless otherwise allowed by permit issued by the County Engineer.

Streams, waterways and ditches, including roadside ditches, shall be kept free of leaves, grass clippings, brush, and trash. Any accumulation of such debris shall be promptly removed by the owner of the property thereon.

No alteration of streams, waterways or ditches shall be allowed unless plans have been approved by the County Engineer, a permit has been issued, and any applicable fees paid.

Roadside and waterway ditches provide capacity and storage during periods of heavy rainfall and vegetation within the ditches filters sediment and debris from traveling downstream, therefore, enclosure of ditches is prohibited. Alternatives to ditch enclosure are installing aggregate drains to enhance recharge of standing water into the soil and grading back slopes to allow easier maintenance and/or reduce ditch edge erosion.

No person shall deposit any pollutant into any stream, waterway, storm sewer, or ditch. The deposit or discharge of any pollutant unless contained by adequate means, shall be considered a violation of this requirement

10. DRIVEWAYS AND DRIVE CULVERTS

Construction and maintenance of driveways and drive culverts within unincorporated areas of the county are the responsibility of the owner of the properties they serve. Drive culverts shall be constructed of size and type approved by the local authority and kept free of debris. Driveways shall be constructed and maintained to prevent the flow of water therefrom onto the street or adjacent property. Local rules and regulations for driveways and drive culverts shall apply within municipalities.

11. PUBLIC ROADWAY BRIDGES, CULVERTS AND STORM SEWERS

Construction and maintenance of public roadway bridges, culverts and storm sewers shall be performed by the responsible public agency including clearing of debris causing a restriction in the flow of storm water. The design of new and replacement bridges, culverts, and storm sewers shall be reviewed and approved by the County Engineer.

12. PRIVATE BRIDGES, CULVERTS AND STORM SEWERS

Maintenance of private bridges, culverts, and storm sewers shall be the responsibility of and shall be performed by the property owner including clearing of debris causing a restriction in the flow of storm water. Private bridges over waterways, culverts, and storm sewers found to be in disrepair, to be improperly sized, or to be impeding flow shall be removed, repaired, or modified by the property owner upon receipt of notice by the County Engineer. New and replacement bridges, culverts, and storm sewers shall be properly sized for flow of storm water in accordance with the Summit County Engineer's Storm Water Drainage Manual and shall be reviewed and approved by the County Engineer. The installer of private roadway bridges, culverts, and storm sewers shall be subject to payment of applicable permit and inspection fees.

13. DAMS OR BASINS REQUIREMENTS

All Dams shall be maintained by the property owner in a stable condition free from erosion and in accordance with the standards and requirements of the State of Ohio, Department of Natural Resources, Division of Water. Three (3) copies of detailed drawings of proposed dams or basins and all calculations shall be submitted to the County Engineer for approval. The property owner shall also apply for a permit from the State of Ohio, Department of Natural Resources, Division of Water, if applicable, and any other applicable agencies. All dams, emergency spillways, basins, and fire ponds shall be stabilized from erosion immediately following any construction or maintenance activity.

14. GROUND COVER

Properties shall be maintained with adequate groundcover vegetation to prevent erosion of the soil. All eroded surfaces shall be repaired to prevent further damage and all erosion soil materials that leave a property shall be removed by the owner of the property from which they originate.

15. OHIO ENVIRONMENTAL PROTECTION AGENCY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT MS4 REQUIREMENTS

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The Summit County Storm Water Management Program dated March 10, 2003, and its annual updates, shall govern the Service Area MS4 Ohio EPA NPDES Phase II General Permits Requirements.

16. SURFACE WATER POLLUTION CONTROL

Chapter 944 of the Codified Ordinances, “Illicit Discharge Detection and Elimination Program” shall govern all activities related to discharges to storm sewers, drains, ditches, streams, waterways and wetlands.

17. RIPARIAN AND WETLAND SETBACK REQUIREMENTS

Chapter 937 of the Codified Ordinances, “Riparian Setbacks,” shall govern all activities within and/or adjacent to waterways and wetlands.

18. SUBDIVISION LAND DEVELOPMENT

Storm water facilities constructed as a component of Subdivision Land Development shall comply with the applicable standards and regulations provided in the Summit County Subdivision Regulations.

19. NON-SUBDIVISION LAND DEVELOPMENT

All non-subdivision land development shall comply with Chapter 943 of the Codified Ordinances, “Comprehensive Storm Water Management.”

20. EROSION AND SEDIMENT CONTROL AND POST CONSTRUCTION STORM WATER QUALITY

All land disturbance shall comply with Chapter 941 of the Codified Ordinances, “Erosion and Sediment Control and Post Construction Storm Water Quality”.

21. MAINTENANCE RESPONSIBILITY FOR STRUCTURAL BEST MANAGEMENT PRACTICES

Maintenance of all structural Best Management Practices (“BMPs”) shall be the responsibility of the property owner or the property owner’s designee except where such responsibilities have been dedicated to and accepted by the County or other political subdivision by Ditch Petition or other legal process. The County Engineer or the Engineer’s designee shall inspect structural BMPs from time to time and shall issue correction notices where warranted. Structural BMPs shall be maintained in accordance with an approved maintenance plan prepared by an Ohio licensed Professional Engineer and in a manner such that the facility will function as designed and intended.

22. FLOOD ZONES

All land disturbance shall comply with Chapter 1345 of the Codified Ordinances, “Flood Damage Reduction”.

23. FILLING, GRADING, EXCAVATING AND POND CONSTRUCTION

Filling, grading, excavating, and pond construction shall be performed in compliance with the following requirements:

23.01 REGULATIONS

(a) No filling, grading, excavating, or pond construction shall be commenced in the District except as hereinafter provided, and then only in full compliance with the requirements, standards and conditions contained herein.

(b) The provisions of this Chapter shall not be construed as permitting the applicant to carry on any commercial operation or business or use any premises or buildings or structures thereon for any purpose not permitted by other provisions of this chapter or the applicable local Zoning Ordinance. For the purpose of this Section, an excavation shall not be considered a commercial operation or business if the excavation is incidental to and necessary for establishment or operation of a use permitted by the applicable zoning regulation.

(c) The provisions of this Section shall apply to all excavations, grading or filling operations which are being conducted at the time these Rules and Regulations go into effect as provided in Section 23.03 and except that any existing operation shall be completed within one year from the effective date of this Chapter, provided that written notice of intention to continue such operation for such time is filed with the County Engineer within thirty days after the effective date of this Section. No existing operation shall be extended in area or any new operation commenced after such date without first securing a permit therefor as hereinafter provided, and such operation shall be subject to all of the provisions of this Chapter.

23.02 PERMIT REQUIRED

Except as provided in Subsection 23.03, a permit shall be required for every excavation, grading, pond or filling as defined herein.

23.03 EXCEPTIONS

(a) No permit shall be issued and no fees shall be required for excavation, grading or filling operations performed in conjunction with the following activities; however, all other provisions of this Chapter shall apply and applications for the performance of these activities shall be reviewed for compliance with the requirements contained herein:

(1) Site improvements. Activities incidental to any site improvement project shown by the plans and specifications as approved under the provisions of applicable land development regulations.

(2) Excavation for streets and drains. Necessary grading, removal or excavation of topsoil or other materials shall be permitted within the limits of the right of way or slope rights of any existing street, or for the purpose of constructing streets and other related improvements within the area of new subdivisions when made in accordance with subdivision plans approved by the Planning Commission, which plans shall establish the elevations and grades of such streets and/or the location of such improvements, and for which a street construction permit or a drain connection permit has been issued.

(b) Excavation, grading and filling operations conducted in conjunction with the following operations shall be exempt from the requirements of this

Chapter provided the operations do not affect a wetland, do not block or divert natural storm water flows to the detriment of neighboring properties.

(1) Foundation grading. Activities conducted within fifteen feet of the foundation of an existing structure for the purpose of directing surface water flows away from the foundation of the structure.

(2) Landscaping. Activities involved in the installation of landscaping materials and plants and the seeding or sodding of lawn areas.

(3) Utilities and conduits. Activities conducted in the repair or replacement of storm water pipes, drains or tile including roof drains and foundation drains or underground utility service connections for which the proper authority has been contacted and any necessary permits and/or work authorizations have been obtained.

(4) Farming. Activities conducted in the lawful use of the land for farming, nurseries, gardening or similar agricultural or horticultural use where permitted by the local zoning code and ORC § 519.21.

(5) Land Fills. As regulated and approved by County or State agencies.

23.04 PROHIBITED EXCAVATION, GRADING OR FILLING.

No excavation, grading, filling or pond construction shall be permitted which would interfere with the natural drainage of the site or the general area surrounding the site or interfere with the preservation of wetlands on, adjacent to, abutting or affected by the site. All existing watercourses and wetlands shall be preserved, except that wetlands may be altered and mitigated in accordance with requirements of all statutes, ordinances or regulations of any federal or state agency or subdivision thereof, that such watercourses may be relocated or piped, provided that there shall not be a significant increase in the rate of stormwater runoff from the site and there shall not thereby be created any interference with the riparian and drainage rights or easements of other property owners, and provided further that no drainage shall be made onto public land or connected with public facilities without the express approval of the County.

23.05 PERMIT APPLICATION; FEES; EXPIRATION.

(a) Application for an excavation, grading or filling permit shall be made by the property owner or his/her authorized agent to the County Engineer as enforcement officer, on forms provided by the County. An application form in duplicate shall be accompanied by a detailed statement of proposed work, the purpose thereof and the reason such work is clearly incidental to the improvement of the property. An application shall be accompanied by the following:

(1) Two sets of maps and plans with specifications showing the proposed excavation, grading or filling and any approvals or permits for such work required by any federal or state agency or subdivision thereof. All such plans shall be prepared by a qualified professional, where the excavation, grading or filling of more than 500 cubic yards of material is expected, and drawn to an appropriate scale which in no case shall be less than one inch equals 100 feet and shall show the following:

- A. The full name and address of owner of property;
- B. A description of property by street address and tax assessor designation with a surveyed boundary shown on the plan;
- C. The location of the premises and its geographic relation to the neighboring properties, showing all buildings and roads within 100 feet of the boundaries of the plot on which the excavation, grading or filling is proposed;
- D. A plan of the portion of the property that is to be excavated, graded or filled with excavated material and specifications for the execution of the excavation, grading and/or filling.
- E. The estimated maximum quantity of material to be excavated, graded or filled and the estimated part thereof that shall be used for grading or filling;
- F. The location and depth, where known, of any well situated within fifty feet of the proposed excavation and/or filling;
- G. The location of any sewerage disposal system or underground utility line, any part of which is within fifty feet of the proposed excavation, grading or filling area and the location of any gas transmission pipeline operated at a maximum service pressure in excess of 200 P.S.I.G., any part of which is within 100 feet of the proposed excavation, grading or filling area;
- H. Existing and proposed topography of the premises and any area which is within 100 feet of the proposed excavation, grading or filling area at an appropriate contour interval which in no case shall be more than two feet. Existing and final elevations shall be shown at horizontal intervals of not more than twenty-five feet. All physical features shall be shown including streets, structures, drives, walks, parking areas, trees, drainage structures, hydric soil areas, marsh or swamp land areas, etc. Existing and proposed elevations of all significant physical features shall be shown;
- I. The location and present status of any previously permitted excavation operations on the property;
- J. The details, plans and specifications of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof;
- K. The design of any proposed complete design calculations, plans and specifications;
- L. A statement concerning the type and nature of the soils on the site and any area which is within 100 feet of the proposed excavation, grading or filling area. This statement may rely on information provided by the Soil and Water Conservation Service Office of Summit County and shall identify and describe the location of any hydric soils and non- hydric soils which contain hydric components as indicated in the Soil Survey of Summit County, Ohio, prepared by the United States Department of Agriculture, Soil Conservation Service, and shall locate and identify any area shown as marsh or swamp land on the most current edition of Summit County Topographic Maps. In the case where hydric soils, non-hydric soils which contain hydric components, marsh or swamp land are

indicated, this statement shall be supplemented by the approval of the U.S. Army, Corps of Engineers and a copy of any study required by them. Hydric soils shall be any soils designated by the following map symbols: Ca, Cg, Da, Fr, Ho, Ld, Ln, Od, Sb, Sv, Tr or Wc. Non-hydric soils which contain hydric components shall be any soils designated by the following map symbols which are located within depressions, drainageways, springs, swales, low areas and/or stream meander channels: CcA, CcB, DkD, DkF, FcA, FcB, FnA, JtA, MgA, MhB or ReA, RmA, RsC2, WaA and/or WaB;

M. The method of and specifications for erosion and siltation control to be implemented during the course of the work;

N. A plan and specifications for salvage and re-use of the existing topsoil on the site;

O. An estimate of the cost of the work for all excavations, grading and/or filling of more than 500 cubic yards of material and for all projects;

P. If the proposed excavation and/or filling is for the purpose of constructing a lake or pond, the details, plans and specifications of the proposed dam or other structures and the embankments intended to impound the water, together with the details, plans and specifications of the proposed discharge through a standpipe, overflow, spillway and/or a valved outlet for drainage purposes, the proposed level of any impounded water, and plans, specifications and details of the emergency or flood level overflow or spillway. Any proposal involving the construction of a dam for the impoundment of water shall be approved by the State Water Board, if and where necessary, and any dam shall be approved by the Ohio Department of Natural Resources, if and where necessary, and such approval shall be obtained prior to the issuance of a permit hereunder; Three (3) copies of detailed drawings of proposed dams or basins and all calculations shall be submitted to the County Engineer for approval. The property owner shall apply for a permit from the State of Ohio, Department of Natural Resources, Division of Water, if applicable, and any other applicable agencies. All dams, emergency spillways, basins, and fire ponds shall be stabilized from erosion immediately following construction;

Q. Details and specifications of soil preparation and revegetation or other methods of soil erosion control upon completion, and in case of a wetlands, revegetation and restoration in accordance with the approved wetlands mitigation plan;

R. Proposed truck and equipment accessways to the worksite including plans and specifications for treatment of the accessways to protect the adjacent public roadway from the accumulation of dirt and debris; and

S. A statement from the property owner or his/her agent assuming full responsibility for the performance of the operation as stated on the plans and specifications in the application. This statement shall also contain an assurance that all public property and/or public roads shall be protected adequately.

(2) For applications involving lake or pond construction, wetland mitigation or excavation, grading and/or filling of more than 500 cubic yards of material, a performance bond in form and with surety approved by the Director of

the Department of Law and Risk Management in such amount as shall be deemed sufficient to insure completion of all work following excavation, grading or filling pursuant to the conditions of approval; provided that, in lieu of such bond, the County may accept a certified or bank officer's check in the same amount payable to the County; and

(3) Fees to cover the cost of plan review and inspections as follows:

A. Application and permit fee: Twenty-five dollars (\$25.00) base fee plus two dollars (\$2.00) per each 100 cubic yards of excavation, filling and/or grading or fraction thereof.

B. The application and permit fee shall be increased by two percent (2%) of the estimated construction cost of any storm water structure, utility line, pavement or other structure involved in the work. The estimated construction cost used to calculate the fees referenced in this Subsection may exclude the additional cost which may be attributed to the use of decorative and/or ornamental materials and finishes.

(b) Upon receipt of the application and plan, the County Engineer shall establish the amount of the performance bond, if any, and if such application and plan complies with the standards contained in this Chapter, the County Engineer shall issue a permit in accordance therewith. In acting on such an application and plan, the County Engineer shall be guided by and shall take into consideration the public health, safety and general welfare, and, particular consideration shall be given as to whether the plan shall create any of the following conditions:

(1) Interference with surface water flow and drainage;

(2) Interference with lateral supports and slopes;

(3) Causes erosion, alteration of the natural topography and grade of land, depletion of natural deposits of topsoil and other natural materials, disturbance of the plant and wildlife, creation of nuisances and potentially dangerous slopes, walls or open pits or creation of stagnant water pools; or

(4) Impacts upon the value and use of adjacent properties;

(5) Increases the height or duration of floodwater;

(6) Results in incompatible land uses or uses which would be detrimental to the protection of surface and ground water supplies;

(7) Increases the financial burdens imposed on the community through increasing water treatment costs, increasing floods and overflow of water onto land areas;

(8) Is inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural landforms, vegetation and the wetlands within the community;

(9) Includes development of land and water areas essential to continue the temporary withholding of rapid runoff of surface water which presently contributes to downstream flooding or water pollution or for land and water areas which provide ground water infiltration which diminishes the land area necessary to carry increased flow or storm water following periods of heavy precipitation.

The County Engineer may impose such reasonable conditions or requirements upon the issuance of a permit as the Engineer deems necessary or proper to assure faithful compliance with this Chapter.

(c) A permit issued under this section shall expire one year from the date of issuance, except that the County Engineer may, for good cause shown, extend any permit for one-year periods after complete review of all plans and examination of work

accomplished and proposed, provided application is made at least thirty days prior to the expiration date of such permit. In no case shall a permit be extended if the provisions of this regulation have not been complied with, provided, however, that in connection with continuing operations, the County Engineer may waive, for one-year periods, those requirements which would make continuing operations impractical.

23.06 STANDARDS.

The following standards shall apply to excavation, filling and grading operations:

(a) No excavation, grading or filling shall be permitted within twenty feet of an existing or approved street right-of-way line except to conform to approximate street grade.

(b) Finished slopes of an excavation shall not exceed 1:1 1/2 (vertical to horizontal) in undisturbed earth, 1:2 in earth fill, and 4:1 in rock cut, whether or not the ground surface shall be below water.

(c) Vertical slopes shall be permitted if adequate retaining structures and protective fences are provided when needed.

(d) Truck and equipment accessways to the site of the operation shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such access shall be kept either wet or oiled or treated with chemical dust deterrents, or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such accessways shall be clearly marked with signs and shall be posted approximately 200 feet distance from such accessways or other traveled areas. Such signs shall read "Caution, Trucks Entering" and be of size, type, coloring, lettering and format used by the Highway Department of the County or State.

(e) Excavations shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.

(f) Slopes greater than 1:2 shall receive special ground cover treatment and the upper bank shall be protected by fences, railings or other means.

(g) All work, including compaction of fill, shall be conducted in accordance with accepted and approved engineering standards.

23.07 OPERATIONS.

All operations conducted in connection with an excavation, grading or filling permit shall be subject to local zoning regulations.

23.08 FINISHED GRADING ON FILL OPERATIONS; REESTABLISHMENT OF SITE ON EXCAVATION AND REMOVAL OPERATIONS.

Upon completion of the work allowed herein, compliance with the applicable provisions of the following Subsections is required:

(a) All pits, quarries, holes or other excavated areas shall be refilled with, and no new filling operation shall be conducted with, any material except clean, non-burnable fill containing no trash, refuse or harmful matter, and such excavated area and new filling operations shall be graded to the level of adjoining properties, or to an elevation from which all surface and other waters collected therein may find natural drainage therefrom. Stumps and logs may not be used for fill material unless approved by the County Engineer. Excess material shall either be removed from the premises or leveled and covered with topsoil and seeded as hereinafter provided.

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(b) If the proposed method of soil erosion control is by re-vegetation, the specifications for the work shall provide that any layer of topsoil over the area to be excavated, graded or filled shall be set aside and retained on the premises in sufficient quantity to cover all surfaces which shall remain exposed, except rock, to a depth of at least four inches, with topsoil added if necessary to make up any deficiency. The specifications shall also provide that at the completion of re spreading of topsoil it shall immediately be harrowed or raked to establish a seedbed and shall be seeded for grass, permanent pasture mixture or other approved fast-growing vegetation and shall be repeated as often as necessary until the area is stabilized.

(c) In the case of extended operations, except for access drives and the actual work area, the completed portion of the excavation, filling or grading operation shall be subject to the provisions of subsection (b) hereof and the operation shall be completed prior to the reissuance of the permit under Section 23.05 (c).

(d) Where a permit has been issued for the excavation of a lake or pond, the provisions of this section applicable to seeding shall not apply to that part of the excavation below the water mark of such lake or pond.

(e) Property corners shall be set and property lines shall be marked before the commencement of the work and such markings shall be maintained through the duration of the work.

(f) The applicant shall notify the County Engineer of the following, when and as completed:

(1) Rough grading;

(2) Final grading before seeding; and

(3) All reestablishment and construction work. The County Engineer, upon such notification, shall make field inspections on the site before rough grading, after final grading, before seeding and at the completion to determine if work in progress and the completed operation have been performed in accordance with this Chapter.

(g) Upon completion of the work, where a permit is required, the owner or his/her authorized agent shall cause to be prepared by the project engineer or surveyor of record an "as built" drawing showing the elevations and contours actually established. The "as built" drawing shall be reviewed by the County Engineer and approved as conforming to the approved plan prior to the release of the performance bond.

24. DESIGN OF IMPROVEMENTS

The design of all storm water improvements shall be in conformance with the Summit County Engineer's Stormwater Drainage Manual.

25. PLANS AND SPECIFICATION

Plans and specifications shall be prepared in conformance with requirements of the Summit County Engineer's Storm Water Drainage Manual.

26. PERMIT AND INSPECTION FEES

Except as otherwise provided for herein, permit and inspection fees shall be based upon the actual cost of the service provided.

27. ENFORCEMENT

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The provisions of these Rules and Regulations may be enforced through proceedings brought by the County of Summit Prosecutor on behalf of the County of Summit.

28. APPEALS

Any person aggrieved by any order, requirement, determination or action made under these Rules and Regulations may file an appeal as provided in Summit County Codified Ordinance Chapter 942.

29. PENALTY

Whomever violates any provision of these Rules and Regulations shall be fined not more than five hundred dollars (\$500.00) and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Such penalty shall be in addition to any costs charged for work by the County required to correct non-compliance with orders issued hereunder, such charges which may be collected by lien upon the affected property.

No penalties shall be charged until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period shall result in assessment of a civil penalty or other enforcement action.