

RESOLUTION NO. R26-56

**A RESOLUTION BY THE TROTWOOD CITY COUNCIL
DECLARING THE EXISTENCE OF A PUBLIC NUISANCE AND
DRAINAGE-RELATED CONDITIONS AT THE PROPERTY
LOCATED AT 5300 SALEM AVENUE, PARCEL ID NO. H33
00807 0001, AND DIRECTING THE PROPERTY OWNER
AND/OR THE OWNER'S AGENT TO TIMELY REMEDIATE
THESE CONDITIONS IN THE INTEREST OF THE PUBLIC
HEALTH, SAFETY, AND WELFARE.**

WHEREAS, pursuant to the City of Trotwood Code of Ordinances ("TCO") Section 929.31, the owner and/or the owner's agent of the property located at 5300 Salem Avenue (Parcel ID No. H33 00807 0001) (the "Property") was served with the City's "Notice to Correct Drainage Condition" (the "1st Notice") on June 23, 2026, which included a Correction Order directing the Property owner and/or the owner's agent to clean out the drainage ditch at the Property so as to restore it to its proper design function (i.e., proper flow and capacity) within 30 days from service of the 1st Notice; and

WHEREAS, a copy of the 1st Notice is attached hereto as Exhibit "A"; and

WHEREAS, the Property owner and/or the owner's agent failed to timely comply with the Correction Order included in the 1st Notice; and

WHEREAS, the failure to comply with the Correction Order contained in the 1st Notice resulted in the City's issuance of a "Notice of Failure to Comply with Correction Order" (the "2nd Notice") on September 4, 2026, which was served upon the Property owner and/or the owner's agent by hand delivery and/or posting on the Property and U.S. mail; and

WHEREAS, the 2nd Notice informed the Property owner and/or the owner's agent that City Council would be meeting on September 21, 2026 at 6:30 p.m., to consider adopting a Resolution, pursuant to TCO Section 929.32, directing the Property owner and/or the owner's agent to take all corrective action required to resolve the drainage-related issues at the Property and to bring the Property into compliance with the TCO; and

WHEREAS, the 2nd Notice also informed the Property owner and/or the owner's agent of the right to be heard by City Council before the adoption of a Resolution pursuant to TCO Section 929.32; and

WHEREAS, the 2nd Notice also informed the Property owner and/or the owner's agent that if the owner and/or the owner's agent fails to timely take the corrective action required to abate the public nuisance and correct the drainage-related issues at the Property, the City will perform the required work to correct the drainage-related issues and, in that event, the Property owner will be charged all abatement costs incurred by the City pursuant to TCO Sections 929.32 and 929.33, which costs will constitute a lien on the Property; and

WHEREAS, a copy of the 2nd Notice is attached hereto as Exhibit "B"; and

WHEREAS, the public nuisance and drainage-related conditions at the Property must be abated in the interest of the health, safety, and welfare of the citizens of Trotwood; and

WHEREAS, the Property owner and/or the owner's agent **did** ☐ **did not** ☒ request to be heard by City Council before the adoption of this Resolution, and the Property owner **did** ☐ **did not** ☒ exercise this opportunity.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO:

SECTION I: The Property owner and/or the designee or agent of the Property owner is hereby directed to abate the public nuisance and drainage-related issues at the Property by cleaning the vegetation (including but not limited to cattails), sediment, and other debris from the existing culvert/ditch to bring it into compliance with the TCO.

SECTION II: The corrective action required by this Resolution must be completed within 30 days of service of this Resolution upon the Property owner and/or the owner's agent.

SECTION III: In the event the corrective action required by this Resolution is not timely completed, the City will abate the public nuisance and drainage-related issues at the Property. In that event, the Property owner will be charged all abatement costs incurred by the City, which costs shall constitute a lien on the Property.

SECTION IV: The Clerk of Council is hereby directed to mail a certified copy of this Resolution to the Property owner and/or the owner's agent within 48 hours of the adoption of this Resolution.

SECTION V: The Public Works Operation Supervisor, or his designee, is hereby directed to serve a certified copy of this Resolution upon the Property owner and/or the owner's agent via personal delivery or post the Resolution on a conspicuous place on the Property, within 48 hours of the adoption of this Resolution.

SECTION VI:

It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were done in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to, Section 121.22 of the Ohio Revised Code.

SECTION VII:

This Resolution shall take effect and be in force from and after the date of its passage.

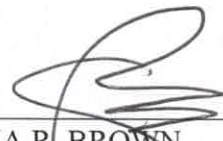
Passed this 21st day of September, 2026.

ATTEST:

APPROVED:


KARA B. LANDIS
CLERK OF COUNCIL


YVETTE F. PAGE
MAYOR


TYNA R. BROWN
VICE-MAYOR

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify that the foregoing is a true and correct copy of Resolution No. R26-56 adopted by the Trotwood City Council at a special meeting held on the 21st day of September, 2026, and that I am duly authorized to execute this certificate.

Signed this _____ day of _____, _____.

CLERK OF COUNCIL



NOTICE TO CORRECT DRAINAGE CONDITION

Pursuant to Trotwood Codified Ordinance Sections 929.31 and 929.32

Date: June 23, 2026

To: CP3, LLC (Epix Tubes)

Property Address: 5300 Salem Avenue, Trotwood, OH 45426

Parcel Number (if applicable): H33 00807 0001

Dear Property Owner:

The City of Trotwood has conducted an inspection of the property identified above and has determined that a drainage condition exists that requires corrective action pursuant to Section 929.31 of the Trotwood Codified Ordinances. Specifically, the City has found the following condition(s):

Existing culvert/ditch is blocked with vegetation(cattails), sediment and/or debris preventing proper flow and reducing capacity. The ditch should be cleaned and restored to its original design function.

The condition described above constitutes one or more of the following:

- Inadequate drainage of the tract of land;
- An obstruction to a culvert, covered drain, or natural or man-made watercourse that interferes with the natural flow of water; and/or
- A culvert, drain, or watercourse of insufficient capacity to reasonably accommodate the flow of water.

ORDER TO CORRECT

Pursuant to Section 929.31(a), you are hereby directed to remove the obstruction and/or provide the necessary drainage improvements required to bring the property into compliance with Chapter 929 of the Trotwood Codified Ordinances.

All corrective work must be completed no later than 30 days (not to exceed thirty (30) days from the date of service of this Notice). Upon completion of the corrective action, you may be required to notify the City for verification and inspection.

FAILURE TO COMPLY

Pursuant to Section 929.31(b), failure to comply with this Order within the time specified shall constitute an unlawful act. Each additional ten (10) day period during which the violation continues after the compliance deadline may constitute a separate offense.

In addition, pursuant to Section 929.32:

1. In the event of an emergency affecting public health, safety, or welfare, the City may take immediate action to correct the condition and charge all abatement costs to the property owner.

2. If the condition remains uncorrected for more than thirty (30) days following service of this Notice, City Council may adopt a resolution directing corrective action, including filling or draining the land, removing obstructions, and enlarging culverts, drains, or watercourses as necessary.
3. Should the owner fail or refuse to comply with a Council resolution, the City may perform the required work and assess all abatement costs against the property. Such costs may become a lien upon the property and may be enforced in the Montgomery County Court of Common Pleas.

If you have any questions regarding this Notice or wish to discuss the required corrective measures, please contact the City of Trotwood at (937)837-1702.

Sincerely,

Johnny McCluskey,
Public Works Operations Supervisor



NOTICE OF FAILURE TO COMPLY WITH CORRECTION ORDER

September 4, 2026

VIA HAND-DELIVERY OR POSTING ON THE PREMISES AND REGULAR U.S. MAIL

CP3, LLC (Epix Tubes)
5300 Salem Avenue
Dayton, Ohio 45426

Re: 5300 Salem Avenue, Parcel ID No: H33 00807 0001

Dear Property Owner/Agent/Tenant:

On June 23, 2026, the City of Trotwood (the "City") served you with a written notice (the "1st Notice"), by personal delivery, to correct drainage issues at the property located at 5300 Salem Avenue, Parcel ID No. H33 00807 0001 (the "Property"). The City has determined that during periods of significant rainfall a seriously hazardous drainage condition is created. The attended flooding is a danger to people and vehicular traffic such that requires immediate corrective action pursuant to Section 929.31 of the Trotwood Codified Ordinances. Specifically, the City has found the following condition(s):

Existing culvert/ditch is blocked with vegetation(cattails), sediment and/or debris preventing proper flow and reducing capacity. The ditch should be cleared and cleaned to comply with City ordinances.

The condition described above constitutes one or more of the following:

- Inadequate drainage of the tract of land;
- An obstruction to a culvert, covered drain, or natural or man-made watercourse that interferes with the natural flow of water; and/or
- A culvert, drain, or watercourse of insufficient capacity to reasonably accommodate the flow of water.

An "Order to Correct" was included in the 1st Notice, which directed you, pursuant to Section 929.31(a) of the Trotwood Codes of Ordinances (the "TCO"), to remove the obstruction(s) at the Property and/or make all necessary draining improvements required to bring the Property into compliance with Chapter 929 of the TCO. The Order to Correct required that you complete all corrective action required within thirty (30) days of the service of the 1st Notice. Accordingly, all corrective action required should have been completed on or before July 23, 2026. A recent inspection of the Property has confirmed that you have not complied with the City's June 23, 2026 Correction Order.

The drainage conditions at your Property constitute a public nuisance, which affects the health, safety, and/or welfare of the citizens of our community. Accordingly:

YOU ARE HEREBY NOTIFIED THAT CITY COUNCIL WILL MEET ON SEPTEMBER 21, 2026 AT 6:30 P.M. AT THE TROTWOOD COMMUNITY AND CULTURAL ARTS CENTER, 4000 LAKE CENTER DRIVE, TROTWOOD, OHIO 45426 TO CONSIDER ADOPTING A RESOLUTION, PURSUANT TO SECTION 929.32 OF THE TROTWOOD CODES OF ORDINANCES, DIRECTING YOU TO TAKE ALL CORRECTIVE ACTION REQUIRED TO CORRECT THE DRAINAGE ISSUES AT THE PROPERTY.

YOU HAVE A RIGHT TO MEET WITH STEPHANIE KELLUM, DEPUTY CITY MANAGER, TO DISCUSS THE CORRECTIVE ACTION REQUIRED. YOU ALSO HAVE A RIGHT TO BE HEARD BY CITY COUNCIL BEFORE THE ADOPTION OF A RESOLUTION PURSUANT TO SECTION 929.32 OF THE TROTWOOD CODES OF ORDINANCES.

IN THE EVENT CITY COUNCIL ADOPTS A RESOLUTION PURSUANT TO TCO SECTION 929.32 DIRECTING YOU TO TAKE THE CORRECTIVE ACTION REQUIRED AND YOU FAIL TO DO SO, THE CITY WILL PERFORM THE REQUIRED WORK TO CORRECT THE DRAINAGE ISSUES AT THE PROPERTY. IN THAT EVENT, YOU WILL BE CHARGED ALL ABATEMENT COSTS INCURRED BY THE CITY, PURSUANT TO TCO SECTIONS 929.32 AND 929.33. THOSE COSTS WILL CONSTITUTE A LIEN ON YOUR PROPERTY.

IF YOU WOULD LIKE TO MEET WITH DEPUTY CITY MANAGER KELLUM TO DISCUSS ABATEMENT OF THE DRAINAGE ISSUES AT THE PROPERTY AND/OR YOU WISH TO BE HEARD BY CITY COUNCIL BEFORE THE ADOPTION OF THE RESOLUTION DESCRIBED HEREIN, YOU MUST CONTACT THE DEPUTY CITY MANAGER BY TELEPHONE AT (937) 854-7224, OR VIA EMAIL AT SKELLUM@TROTWOOD.ORG **ON OR BEFORE SEPTEMBER 10, 2026.**

Sincerely,

Johnny McCluskey,
Public Works Operations Supervisor

c: Stephanie Kellum, Deputy City Manager
Christopher R. Conard, Law Director