

# Ordinance No. 245-2021

By Council Members McCormack, Bishop and Brancatelli (by departmental request)

## AN EMERGENCY ORDINANCE

Authorizing the Director of Capital Projects to issue one or more permits to East 12<sup>th</sup> Properties LLC to encroach into the public rights-of-way of Hamilton Avenue and East 12<sup>th</sup> Street by using and maintaining existing eaves and an existing canopy.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of Capital Projects is authorized to issue one or more permits, revocable at the will of Council, to East 12<sup>th</sup> Properties LLC, 10020 Aurora-Hudson Road, Streetsboro, Ohio 44241 (“Permittee”), to encroach into the public rights-of-way of Hamilton Avenue and East 12<sup>th</sup> Street by using and maintaining existing eaves over Encroachment Permit Area A and an existing canopy over Encroachment Permit Area B, which Areas are described as follows:

### **LEGAL DESCRIPTION Encroachment Permit Area A Hamilton Avenue N. E., Cleveland, Ohio**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Hamilton Avenue N. E., 40 feet wide, said premises being more particularly bounded and described as follows:

BEGINNING at the intersection of the southeasterly line of the aforementioned Hamilton Avenue N. E. and the northeasterly line of East 12th Street, 135 feet wide, as shown on the Vacation and Consolidation Plat of part of East 12th Street and St. Clair Avenue N. E., recorded in Volume 354 of Maps, Page 8 of Cuyahoga County Records;

Course No. 1: Thence North 34 degrees 16 minutes 56 seconds West a distance of 4.00 feet to a point;

Course No. 2: Thence North 55 degrees 43 minutes 04 seconds East a distance of 78.00 feet to a point;

Course No. 3: Thence South 34 degrees 16 minutes 56 seconds East a distance of 4.00 feet to a point on the southeasterly line of the aforementioned Hamilton Avenue N. E.;

Course No. 4: Thence South 55 degrees 43 minutes 04 seconds West along the southeasterly line of Hamilton Avenue N. E. a distance of 78.00 feet to the place of beginning, as described by Christopher J. Dempsey, Professional Surveyor No. 6914 of Dempsey Surveying Company based on an actual field survey performed on February 10, 2021.

Bearings are based on North 34 degrees 00 minutes 00 seconds West as the northeasterly line of East 9th Street, as shown in the deed to Erieview Land Company LLC recorded in AFN 200212310613 of Cuyahoga County Records.

Legal Description approved by Eric B. Westfall, P.S.,  
Acting Section Chief, Plats, Surveys and House Numbering Section.

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## LEGAL DESCRIPTION Encroachment Permit Area B East 12th Street, Cleveland, Ohio

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of East 12th Street, 135 feet wide, said premises being more particularly bounded and described as follows:

Beginning at the intersection of the northeasterly line of the aforementioned East 12th Street, 135 feet wide, as shown on the Vacation and Consolidation Plat of part of East 12th Street and St. Clair Avenue N. E., recorded in Volume 354 of Maps, Page 8 of Cuyahoga County Records, and the southeasterly line of Hamilton Avenue N. E., 40 feet wide; thence South 33 degrees 58 minutes 35 seconds East along the northeasterly line of said East 12th Street, a distance of 67.00 feet to the PRINCIPAL PLACE OF BEGINNING of the premises herein described;

Course No. 1: Thence continuing South 33 degrees 58 minutes 35 seconds East along the northeasterly line of said East 12th Street, a distance of 26.00 feet to a point;

Course No. 2: Thence South 56 degrees 01 minutes 25 seconds West a distance of 1.50 feet to a point;

Course No. 3: Thence North 33 degrees 58 minutes 35 seconds West a distance of 26.00 feet to a point;

Course No. 4: Thence North 56 degrees 01 minutes 25 seconds East a distance of 1.50 feet to the principal place of beginning, as described by Christopher J. Dempsey, Professional Surveyor No. 6914 of Dempsey Surveying Company based on an actual field survey performed on February 10, 2021.

Bearings are based on North 34 degrees 00 minutes 00 seconds West as the northeasterly line of East 9th Street, as shown in the deed to Erieview Land Company LLC recorded in AFN 200212310613 of Cuyahoga County Records.

Legal Description approved by Eric B. Westfall, P.S.,  
Acting Section Chief, Plats, Surveys and House Numbering Section.

Section 2. That the Director of Law shall prepare the permit(s) authorized by this ordinance and shall incorporate such additional provisions as the Director of Law determines necessary to protect and benefit the public interest. The permit(s) shall be issued only when, in the opinion of the Director of Law, the prospective Permittee has properly indemnified the City against any loss that may result from the encroachments permitted.

Section 3. That Permittee may assign the permits only with the prior written consent of the Director of Capital Projects. That the encroaching structures permitted by this ordinance shall conform to plans and specifications first approved by the Manager of the City's Division of Engineering and Construction.

Section 4. That the permits shall reserve to the City reasonable right of entry to the encroachment locations.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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REPORT  
after second Reading

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(by departmental request)**

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READ FIRST TIME on APRIL 12, 2021

REPORTS

and referred to DIRECTORS of Capital Projects,  
City Planning Commission, Finance, Law;  
COMMITTEES on Municipal Services and Properties,  
Development Planning and Sustainability

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CITY CLERK

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READ SECOND TIME

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CITY CLERK

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READ THIRD TIME

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PRESIDENT

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CITY CLERK

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APPROVED

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MAYOR

Recorded Vol. **108** Page \_\_\_\_\_

Published in the City Record \_\_\_\_\_

PASSAGE RECOMMENDED BY  
COMMITTEE ON  
**MUNICIPAL SERVICES  
AND PROPERTIES**

FILED WITH COMMITTEE

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PASSAGE RECOMMENDED BY  
COMMITTEE ON  
**DEVELOPMENT, PLANNING AND  
SUSTAINABILITY**

FILED WITH COMMITTEE

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