



1 Benjamin Franklin Way, Franklin, Ohio 45005, 937-746-9921, FranklinOhio.org

COUNCIL MEETING NOTICE

The City of Franklin, Ohio will conduct its Council Meeting on April 19, 2021 at 6:00 PM. This meeting will be conducted in compliance with Ohio's newly passed Public Meeting Law in response to COVID-19. It is being held virtually. All participants, including the Commission and Franklin Staff, members of the press, and the public, will participate via a video and audio link. All documents to be referenced in the meeting will be posted to the City of Franklin website at www.franklinohio.org before the meeting is called to order. The public will be heard just as it would be heard in a traditional, in person, meeting.

DATE: April 19, 2021
TIME: 6:00 PM.
WHERE: Virtual Meeting - Joining Information

Join from PC, Mac, Linux, iOS or Android:

<https://meetings.ringcentral.com/j/1447734006>

Join by PHONE (Audio only)

US: +1(470) 869-2200

Meeting ID: 144 773 4006

This **MEETING NOTICE** has been published at www.franklinohio.org and provided directly to the press via email at Ed.Richter@coxinc.com. This meeting notice is posted at the City Building, which is currently open to the public under the COVID-19 declared state of Emergency.

Regular Meeting Agenda

1. **Call to Order.**
2. **Roll Call.**
3. **Pledge of Allegiance.**
4. **Approve the Clerk's Journal and Accept the Tapes as the Official Minutes of the April 5, 2021 Meeting.**
5. **Approve the Clerk's Journal and Accept the Tapes as the Official Minutes of the April 12, 2021 Meeting.**
6. **Reception of Visitors.**
7. **Presentation.**
 - A. Zach McDaniel, Talbert House Prevention Services serving Warren & Clinton Counties.
8. **Public Hearing.**
9. **Old Business.**
 - A. Traffic interchange at Community Park and the new high school including a proposed roundabout and pedestrian/bicycle tunnel. (Jonathan Westendorf)
10. **New Business.**
 - A. RESOLUTION 2021 –34 DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, KNOWN AS LOT 58, SYCAMORE GLENN SUBDIVISION, LOCATED ON SCHOLL ROAD, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 08-30-177-013 (Barry Conway)
 - a. Exhibit A
 - b. Exhibit B
 - B. RESOLUTION 2021-35 AUTHORIZING A CONTRACT WITH DUKE ENERGY FOR THE PUBLIC WORKS DEPARTMENT FOR THE INSTALLATION OF LED STREET LIGHTS (Steve Inman)
 - a. Exhibit A

11. Introduction of New Legislation.

A. ORDINANCE 2021-05 – REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 1111.05 TITLED “STORMWATER AND DRAINAGE REQUIREMENTS AND STANDARDS” OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO (Barry Conway)

- a. Exhibit A
- b. Exhibit B

B. ORDINANCE 2021-06 – AMENDING CHAPTER 1103 DEFINITIONS AND SECTION 1107.03 COMMERCIAL DISTRICTS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE (Barry Conway)

- a. Exhibit A
- b. Exhibit B

12. City Manager’s Report.

A. Utility Billing Update

13. Council Comments.

14. Executive Session. To consider the purchase of real property and to receive general legal advice on such real property matter which is in an investigative and information-seeking nature; and to consider the appointment, employment and compensation of a public employee or official.

15. New Business.

A. RESOLUTION 2021-36 – DECLARING CITY MANAGER, THE CITY’S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, FORMERLY KNOWN AS 335 S. MAIN STREET, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 04-32-386-015. (Jonathan Westendorf)

- a. Exhibit A

16. Adjournment.

CLERK'S JOURNAL

CITY COUNCIL

Brent Centers, Mayor
Todd Hall, Vice Mayor
Michael Aldridge
Denny Centers
Debbie Fouts
Paul Ruppert
Matt Wilcher

CITY STAFF

Jonathan Westendorf, City Manager
Karisa Steed, Assistant to the City Manager
Lynnette Dinkler, Law Director
Cindy Ryan, Finance Director
Brian Pacifico, Acting Police Chief
Barry Conway, City Engineer
Steve Inman, Public Works Director
Khristi Dunn, Clerk of Council

Members of the Franklin City Council met in regular session on Monday, April 5, 2021, 6:00 PM via Virtual Meeting held in compliance with amended Substitute House Bill 197 under the declared state of emergency by the State of Ohio and City of Franklin, Warren County, Ohio with Mayor Brent Centers presiding.

- 1. Call to Order.** Mayor Brent Centers called the regularly scheduled meeting of the Franklin City Council on Monday, April 5, 2021 to order at 6:00 PM.
- 2. Roll Call.** Ms. Dunn called roll which showed:

MR. DENNY CENTERS	PRESENT
MR. PAUL RUPPERT	PRESENT
VICE MAYOR TODD HALL	PRESENT
MAYOR BRENT CENTERS	PRESENT
MR. MICHAEL ALDRIDGE	PRESENT
MRS. DEBBIE FOUTS	PRESENT
MR. MATT WILCHER	PRESENT

Mr. Conway, Ms. Dinkler, Ms. Dunn, Mr. Inman, Lt. Pacifico, Ms. Ryan, Ms. Steed and Mr. Westendorf were also present. There were three guests and one member of the press in attendance.

- 3. Pledge of Allegiance.** The pledge of allegiance was led by Mayor B. Centers.
- 4. Approve the Clerk's Journal and Accept the Tapes as the Official Minutes of the March 15, 2021 Meeting.** Mayor B. Centers asked if there were any amendments to the Clerk's Journal. Hearing none, he called for a motion. Vice Mayor Hall made the motion to approve the Clerk's Journal and

accept the tapes as the Official Minutes of the March 15, 2021 general meeting; seconded by Mr. Aldridge. The vote:

MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes

Motion passed.

5. Reception of Visitors. Mayor Brent Centers opened the Reception of Visitors at 6:02 PM. Susan and Andy Stewart of 9359 Vaughn Lane were in attendance regarding Resolution 2021-26. The Mayor thanked the Stewarts and explained that there would be a Public Hearing regarding their application if they would like to speak during that time. There were no others who asked to be heard. The Mayor closed the Reception of Visitors at 6:02PM.

6. Presentation.

A. None.

7. Public Hearing.

A. RESOLUTION 2021-26 APPROVING JAMES A. STEWART’S, ET AL., RENEWAL APPLICATION FOR PLACEMENT OF 54.657 ACRES OF LAND IN AN AGRICULTURAL DISTRICT (Lynnette Dinkler)

A. Exhibit A

B. Exhibit B

This Resolution approves the renewal application filed by the Stewart families with the Warren County Auditor for placement of land within an agricultural district (CAUV). The application is for 54.657 acres of farmland owned by the Stewarts, located along Pennyroyal Road, which lie within the City of Franklin. This land has been in an agricultural district since 1995, and is currently zoned A-1, Agricultural. The land is used for agricultural purposes.

Because this land lies within the City, the Stewarts were required by law to seek Council’s approval of the original placement of the land in the CAUV and the renewals must also be placed before Council for public hearing and action by legislation in order to obtain the requested renewal. Council may reject such application only upon a showing that the rejection is necessary to prevent a substantial, adverse effect on the provision of municipal services within the City, or the public health, safety or welfare. Additionally, Council may approve with modification. Staff has identified no reason for the application to be rejected or approved with modification.

Approval of this application will allow the land to continue to be taxed at its current agricultural use valuation (CAUV) under Ohio law.

The Mayor opened the Public Hearing at 6:03 PM. The Stewarts confirmed they were still farming the land and requested approval of the renewal application. The Mayor asked if any others that would like to be heard. Hearing none he closed the Public Hearing at 6:04 PM.

The Mayor opened the floor for Council deliberation. He asked if there were any questions or comments. Hearing none, he called for a motion. Mr. Ruppert made the motion to adopt **RESOLUTION 2021-26** as submitted; seconded by Mr. D. Centers. The vote:

VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes

Motion passed.

B. ORDINANCE 2021-03 REPEALING IN ITS ENTIRETY CHAPTER 924 TITLED "ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL" OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO, AND ENACTING A NEW CHAPTER 924, TITLED "ILLICIT DISCHARGE DETECTION AND ELIMINATION" (Barry Conway)

A. Exhibit A

B. Exhibit B

These proposed changes were requested by the Warren County Soil and Water Conservation District and the Warren County Engineer - as directed by Ohio Environmental Protection Agency (OEPA). In 2019 the City of Franklin entered into an agreement with the Warren County Soil and Water Conservation District to administer the requirements of the Clean Water Act and more specifically the requirements the City adheres to as a MS4 (Municipal Separate Storm Sewer System). The County Agency has entered into agreements with most entities in the County to provide this service and at a substantial savings to the entities. As part of this service the District is trying to make ordinances and regulations more consistent across the County, and at the direction of Ohio EPA changes to these ordinances are required for proper compliance with the City's MS4 permit.

The Mayor opened and closed the Public Hearing at 6:06 PM as none asked to be heard. The Mayor opened the floor for Council deliberation. He asked if there were any questions or comments. Hearing none, he called for a motion. Vice Mayor Hall made the motion to adopt **ORDINANCE 2021-03** as submitted; seconded by Mr. Wilcher. The vote:

MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes

Motion passed.

C. ORDINANCE 2021-04 AMENDING CHAPTER 1103 DEFINITIONS AND SECTION 1107.07 PARKS AND RECREATION DISTRICT OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE (Barry Conway)

- A. Exhibit A
- B. Exhibit B

This Ordinance would amend Chapter 1103, Definitions and Section 1107.07, Parks and Recreation District of the Unified Development Ordinance. These amendments would add additional definitions and also additional uses and standards to the UDO for Private Parks and Event Centers. These amendments were presented at Planning Commission and it was approved 7-0 to recommend to Council.

The Mayor opened and closed the Public Hearing at 6:09 PM as none asked to be heard. The Mayor opened the floor for Council deliberation. He added that Planning Commission had a lengthy discussion regarding this issue but ultimately voted unanimously to recommend approval to Council. He asked if there were any questions or comments. Hearing none, he called for a motion. Mr. Ruppert made the motion to adopt **ORDINANCE 2021-04** as submitted; seconded by Mr. Aldridge. The vote:

MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes

Motion passed.

8. New Business.

A. RESOLUTION 2021-27 DECLARING THE NECESSITY OF IMPROVING CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF FOR THE YEAR 2022 (Jonathan Westendorf)

This is the first step in the street light assessment process for 2021. The street lighting assessment program is used for lighting public ways and can also be used to purchase new street lights. This process is used for all assessment projects normally done for road improvements, as required by the ORC. Mr. Westendorf clarified that this is the annual legislation and does not include the upgrade of LED lights.

The City pays for 2% of the assessed cost to cover the City's share of the improvement and the cost of lighting intersections, and the remaining 98% of the cost is paid by special assessment levied on all properties within the City. The assessments are levied by a percentage of the tax value of the property and are paid in two semi-annual installments.

The Mayor asked for a motion. Mr. Wilcher made the motion to adopt **RESOLUTION 2021-27** as submitted; seconded by Vice Mayor Hall. The vote:

MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes

Motion passed.

B. RESOLUTION 2021-28 AUTHORIZING THE PURCHASE OF A NEW LEAF VAC TRUCK FOR THE PUBLIC WORKS DEPARTMENT FROM BEST EQUIPMENT THROUGH THE SOURCEWELL NATIONAL PURCHASING PROGRAM (Steve Inman)

a. Exhibit A

This Resolution authorizes the purchase of a new Leaf Vac Truck from Best Equipment Company on National bid for a total cost of \$202,827.87. This would be spread over 5 years on a lease/buy program for \$43,681.00 a year. After the 5 years we will own the Leaf Vac Truck. This would be spread over two funds, Street and Storm at \$21,840.50 each.

The Mayor asked for a motion. Mr. D. Centers made the motion to adopt **RESOLUTION 2021-28** as submitted; seconded by Mr. Aldridge. The vote:

MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes

Motion passed.

C. RESOLUTION 2021-29 AUTHORIZING THE PURCHASE OF A NEW JOHN DEERE 310SL BACKHOE FOR THE PUBLIC WORKS DEPARTMENT FROM MURPHY TRACTOR & EQUIPMENT THROUGH THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES COOPERATIVE PURCHASING PROGRAM (Steve Inman)

A. Exhibit A

This Resolution authorizes the purchase of a new John Deere 310SL Backhoe from Murphy Tractor & Equipment on State bid for a total cost of \$102,951.32. This Price includes a \$12,000 trade-in for our old 1999 Case Backhoe. This would be spread across 4 funds Water, Sewer, Street and Storm. This expense is included in the departments Capital Improvement fund.

The Mayor asked for a motion. Mr. Ruppert made the motion to adopt **RESOLUTION 2021-29** as submitted; seconded by Vice Mayor Hall. The vote:

MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes

Motion passed.

D. RESOLUTION 2021-30 AUTHORIZING THE PURCHASE OF TWO POLICE VEHICLES FOR THE POLICE DIVISION FROM GREVE CHRYSLER JEEP DODGE OF VANWERTTHROUGH THE STATE PURCHASING PROGRAM AND THE EQUIPPING OF THE SAME (Brian Pacifico)

A. Exhibit A

The City of Franklin Division of Police follows a practice of rotation of cruisers fleet to protect the health, safety and welfare of its law enforcement officers and the community it serves. In keeping with this practice, the purchase of two vehicles is recommended for this year: Two new 2021 Dodge Durango's along with the necessary equipment to perform patrol functions. The Budget impact is \$68,646.00 for Cruisers/\$48,317.00 for Equipment.

The Mayor asked for a motion. Vice Mayor Hall made the motion to adopt **RESOLUTION 2021-30** as submitted; seconded by Mr. Wilcher. The vote:

MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes

Motion passed.

E. RESOLUTION 2021-31 AUTHORIZING THE SALE OF SURPLUS CITY PROPERTY BY INTERNET AUCTION (Jonathan Westendorf)

The Ohio Revised Code requires a general notice to the public regarding how the City will dispose of its surplus property should it elect to use on-line auctioning services, such as GovDeals. This resolution is being passed to place the public on notice of the general terms and conditions the City will follow in selling surplus property via on-line auctions.

The Mayor asked for a motion. Mr. Aldridge made the motion to adopt **RESOLUTION 2021-31** as submitted; seconded by Mrs. Fouts. The vote:

VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes

Motion passed.

F. RESOLUTION 2021-32 APPROVING SALE OF SURPLUS CITY PERSONAL PROPERTY WITH ESTIMATED VALUE IN EXCESS OF \$1,000 AND AUTHORIZING CITY MANAGER TO AFFECT SALE OF 2006 FORD EXPEDITION (Jonathan Westendorf)

A. Exhibit A

The Fire Division has a 2006 Ford Expedition with an estimated value of \$1,500. The truck is no longer serviceable. The Fire Division benefits by selling it. It is the recommendation of staff that the truck be sold by public or on-line auction.

Mr. D. Centers asked how many miles were on the vehicle. Mr. Westendorf did not have the mileage readily available but added that the number of hours the vehicle has idled while on scene is also a factor. This vehicle has had mechanical issues in the past.

The Mayor asked for a motion. Vice Mayor Hall made the motion to adopt **RESOLUTION 2021-32** as submitted; seconded by Mr. Aldridge. The vote:

MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes

Motion passed.

9. **Introduction of New Legislation.**

A. None

10. **City Manager's Report.** Mr. Westendorf updated Council on the following items:

The utility billing issue is still being resolved. Staff will work with residents who need time to pay the underbilled amount. This issue impacted approximately 900 customers.

Lane delineators were installed at SR-123.

Jergens will be grinding and doing base repair on Industrial Drive which will reduce traffic to one lane.

Duke is continuing signal updates at 4th & Riley, 6th & Riley and 6th & Anderson over the next month.

The Construction process kicked off with schools during an infrastructure meeting and staff has an upcoming meeting about modular classrooms being installed. Mr. Westendorf wants to prepare the

community for the increased usage of the current high school over the next few years during construction.

He congratulated staff on the Soar Into Spring Event which was well received by the community. Staff is exploring an internship opportunity with Miami University. The Mayor asked if this was a Planning & Development Internship. Mr. Westendorf said several positions including Planning, Parks, Finance, as well as others are being considered.

Mr. Westendorf submitted a letter to the Warren County Commissioners seeking an endorsement for CBDG funding to pay for the installation of Public Wi-Fi Downtown and at the Community Parks. He asked Council for any additional agenda items for the upcoming joint School Board/Council meeting so they can be published in the Special Meeting Notice.

The Mayor thanked Mr. Westendorf for the work that is being put in and staff for the sharing of information on Social Media.

11. Council Comments.

Mr. Wilcher had no comments.

Mrs. Fouts gave condolences to Mr. Wilcher on the passing of his father.

She spoke during the past week at the Franklin Area Women's Networking group on women in local leadership. The event was interesting, and she is thankful for Council and Staff. Council is unified and staff provides information to foster a cohesive atmosphere.

She received her second vaccine and is ready to get back to normal.

Mr. Aldridge thanked staff for their efforts. He liked the Soar into Spring event. He agreed with Mrs. Fouts about the cohesive atmosphere of Council. He is excited about the upcoming changes within the City. He complimented Mr. Westendorf on his weekly updates to Council.

Mr. D. Centers echoed the previous comments. He asked about the property at Franklin Tavern. Mr. Westendorf said this would be discussed later in the meeting. He asked about the exits at Dollar Store and Save-A-Lot and said the holes coming out of the parking lots could damage a vehicle. He asked that this be addressed.

Mr. Ruppert asked about the Marathon Station at SR-123. There is trash and junk that needs cleaned up at the front of the business. He thanked staff for their work and for keeping Council informed.

Vice Mayor Hall asked if the bathrooms at the Community park are in working order and if they could be unlocked for baseball games. Mr. Inman confirmed they were working, and he was unaware that the restrooms were locked, but would make sure they are unlocked moving forward. He enjoyed watching the Soar Into Spring event on Social Media and complimented staff on promoting information on Social Media. He appreciates Council and staff, and how well Council works together. He is excited to see the new Durango's and complimented Lt. Pacifico on choosing the vehicles.

The Mayor also complimented staff on Soar Into Spring and the push of information to the Community via Social Media. He reminded Council that the Charter Review committee is being formed and asked for referrals.

Executive Session. Mayor Brent Centers called for a motion to enter into executive session to consider the purchase of real property and to receive general legal advice on such real property matter which is in an investigative and information-seeking nature; and to consider the appointment, employment and compensation of a public employee or official.

Mr. Ruppert made the motion to enter into executive session; seconded by Mr. Aldridge. The Mayor called for a voice vote and by voice vote the motion was approved 7-0. Council entered into executive session at approximately 6:44 PM with planned action to follow.

Vice Mayor Hall made the motion to adjourn out of executive session; seconded by Mr. Aldridge. The vote:

MR. MICHAEL ALDRIDGE	yes
MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes

Motion passed.

Council adjourned out of executive session at approximately 8:15 PM.

12. New Business.

A. RESOLUTION 2021-33 – DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, FORMERLY KNOWN

AS 335 S. MAIN STREET, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 04-32-386-015. (Jonathan Westendorf)

A. Exhibit A

This property was sold without bidding to MJ Holdings in order to stimulate economic development for the downtown area. Unfortunately, the burdens of COVID rendered the project economically unfeasible for MJ Holdings to continue as planned in good faith by MJ Holdings and the City of Franklin. This resolution will empower the City Manager to purchase the identified property within the City of Franklin for \$1.00.

The Mayor asked for a motion. Mr. Wilcher made the motion to adopt **RESOLUTION 2021-33** as submitted; seconded by Mr. D. Centers. The vote:

MRS. DEBBIE FOUTS	yes
MR. MATT WILCHER	yes
MR. DENNY CENTERS	yes
MR. PAUL RUPPERT	yes
VICE MAYOR TODD HALL	yes
MAYOR BRENT CENTERS	yes
MR. MICHAEL ALDRIDGE	yes

Motion passed.

After the meeting adjourned, it was brought to Council and Staff's attention that a voice vote should not be used to exit into executive session. The executive session and subsequent RESOLUTION 2021-33 were negated and were placed on the next regular meeting agenda.

13. Adjournment. The Mayor called for a motion to adjourn the meeting. Vice Mayor Hall made the motion; seconded by Mrs. Fouts. The Mayor called for a voice vote and by voice vote the motion was approved 7-0. Mayor B. Centers adjourned the meeting at 8:17 PM.

Brent Centers, Mayor

Khristi Dunn, Clerk of Council

CLERK'S JOURNAL

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Cindy Ryan, Finance Director
Brian Pacifico, Acting Police Chief
Barry Conway, City Engineer
Steve Inman, Public Works Director
Khristi Dunn, Clerk of Council

Members of the Franklin City Council met in special session on Monday, April 12, 2021, 6:30 PM at Franklin High School for a joint meeting with the Franklin City Schools Board of Education with Mayor Brent Centers presiding.

1. **Call to Order.** Mayor Brent Centers called the special meeting of the Franklin City Council on Monday, April 12, 2021 to order at 6:32PM.
2. **Roll Call.** Ms. Dunn called roll which showed:

MR. MATT WILCHER	PRESENT
MR. DENNY CENTERS	PRESENT
MR. PAUL RUPPERT	PRESENT
VICE MAYOR TODD HALL	PRESENT
MAYOR BRENT CENTERS	PRESENT
MR. MICHAEL ALDRIDGE	PRESENT
MRS. DEBBIE FOUTS	PRESENT

Mr. Conway, Ms. Dinkler, Ms. Dunn, Mr. Inman, Lt. Pacifico, Ms. Ryan, Ms. Steed and Mr. Westendorf were also present. In addition to the Board of Education and Franklin City Schools Staff, there were approximately 25 guests in attendance.

3. **Pledge of Allegiance.** The pledge of allegiance was led by Mayor B. Centers.
4. **Work Session.** To discuss traffic interchange at Community Park and the new high school including a proposed roundabout and pedestrian/bicycle tunnel.

The Mayor thanked Dr. Sander and the BOE for their collaboration and for hosting the meeting. Board President Andrew Fleming thanked Council in kind. Mr. Westendorf introduced himself and engineers

from CT Consultants, Inc; Scott Campbell, P.E. and David Rotella, P.E., PTOE. Mr. Campbell and Mr. Rotella presented the proposed options, detailed the safety benefits of the proposal, and took questions from the audience.

There was ongoing discussion regarding safety, cost, and usage of a traditional 4-way intersection, roundabout, pedestrian tunnel and pedestrian bridge.

The Mayor highlighted that due to fiscally conservative decisions over many years by the BOE and Council, both bodies have the ability to consider these options. The consensus was that more information was needed as this is lifetime decision and both bodies want to ensure the right decision is made for the community. The pedestrian tunnel is cost prohibitive, but Council and the BOE would like more information on an intersection versus the roundabout with Crosswalk options.

5. **Adjournment.** The Mayor called for a motion to adjourn the meeting. Vice Mayor Hall made the motion; seconded by Mr. Aldridge. The vote:

MR. DENNY CENTERS	PRESENT
MR. PAUL RUPPERT	PRESENT
VICE MAYOR TODD HALL	ABSENT
MAYOR BRENT CENTERS	PRESENT
MR. MICHAEL ALDRIDGE	PRESENT
MRS. DEBBIE FOUTS	PRESENT
MR. MATT WILCHER	PRESENT

Motion passed

The meeting adjourned at approximately 8:16 PM.

Brent Centers, Mayor

Khristi Dunn, Clerk of Council

City of Franklin SR-123

SR-123 (East 6th Street) Intersection with Community Park and Future Franklin High School



Modern Roundabouts *Key Design and Operation*

Current Signal Project

WAR-123-29.40, PID 110740



Total Costs = \$859,480, CMAQ Funding in FY 2024

New Franklin High School

Home of the Wildcats



Modern Roundabout

Trends Nationally and Locally

- Roundabouts are more common (Warren and Butler County)
- Safer and more efficient than traditional signals
- Measurable progress in last 10+ years, but still underutilized/overlooked by some agencies
- Can achieve significant reduction in overall delay
- Safety Benefits for Vehicles:
 - Reduction of all collisions by 40%
 - Reduction of injuries by 75%
 - Reduction in fatalities by 90%
- Pedestrian Safety (40% less)



Modern Roundabout

Alternative to Traffic Signal

Characteristics:

- Designed for slower entry, circulating, and exit speeds
 - Splitter islands slow and deflect traffic prior to entry
- Designed to facilitate safer pedestrian crossings
- Designed to follow a “same lane exit as entry” principle at multilane roundabouts
 - (No Weaving & No Lane Changes in Circle)
- Roundabout Driver Education Resources Available
 - City Website
 - County Engineer’s Office
 - Social Media
 - Students

Intersection Volumes – Planning Level

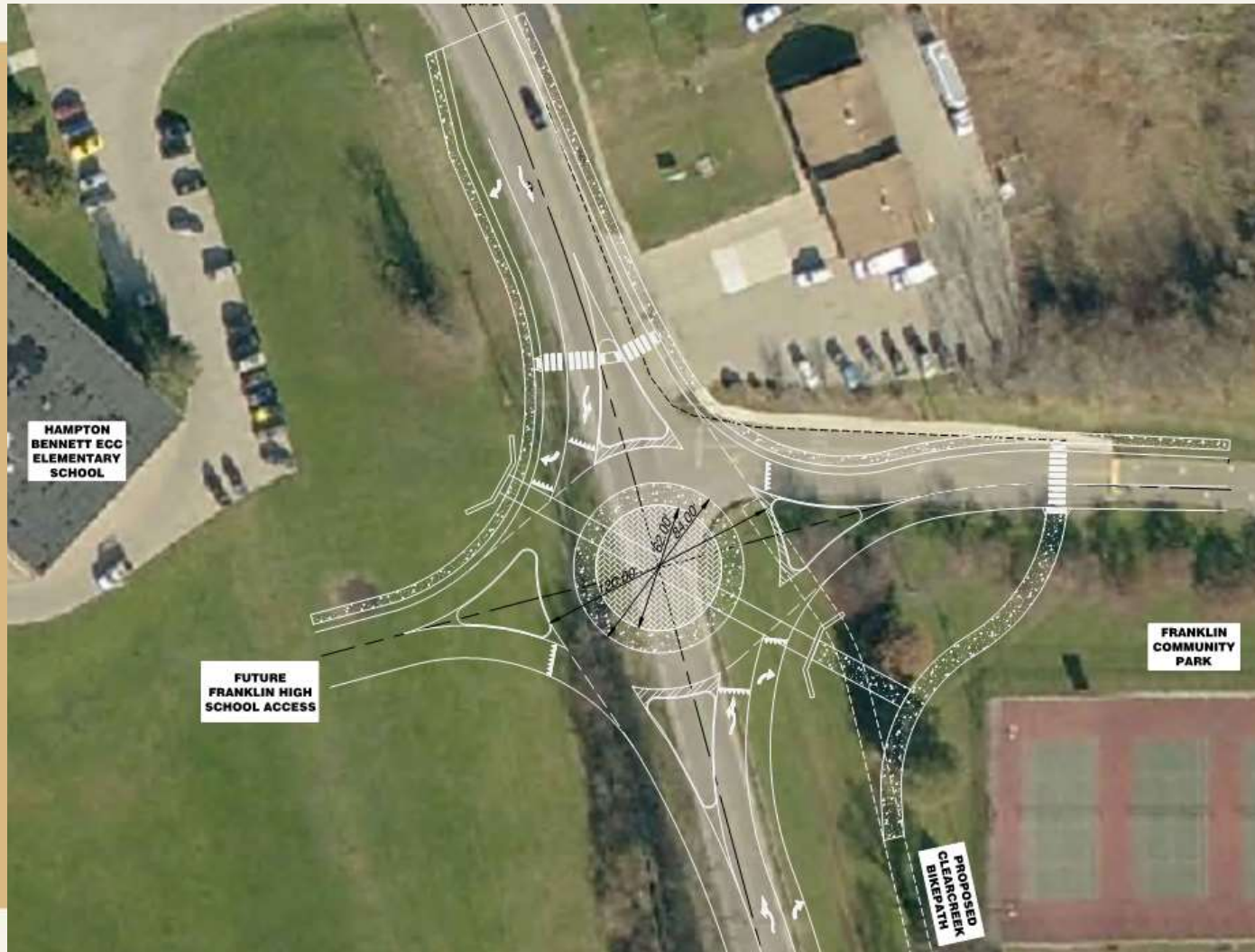
Single Lane Roundabout

Volume Range (sum of entering and conflicting volumes)	Number of Lanes Required
0 to 1,000 veh/h	<ul style="list-style-type: none">▪ Single-lane entry likely to be sufficient
1,000 to 1,300 veh/h	<ul style="list-style-type: none">▪ Two-lane entry may be needed▪ Single-lane may be sufficient based upon more detailed analysis.
1,300 to 1,800 veh/h	<ul style="list-style-type: none">▪ Two-lane entry likely to be sufficient
Above 1,800 veh/h	<ul style="list-style-type: none">▪ More than two entering lanes may be required▪ A more detailed capacity evaluation should be conducted to verify lane numbers and arrangements.

Source: New York State Department of Transportation

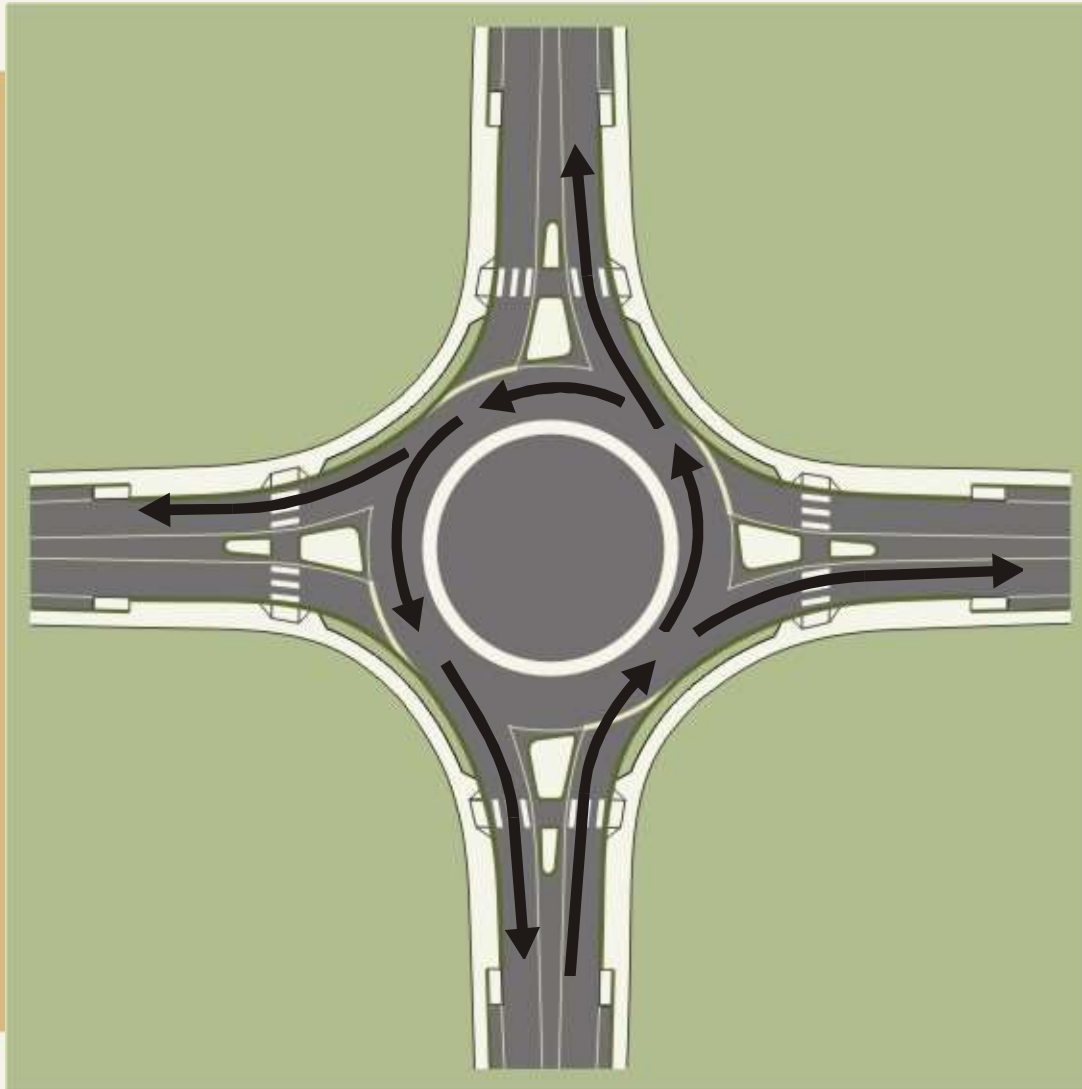
Roundabout Conceptual Alternative

Single Lane Roundabout

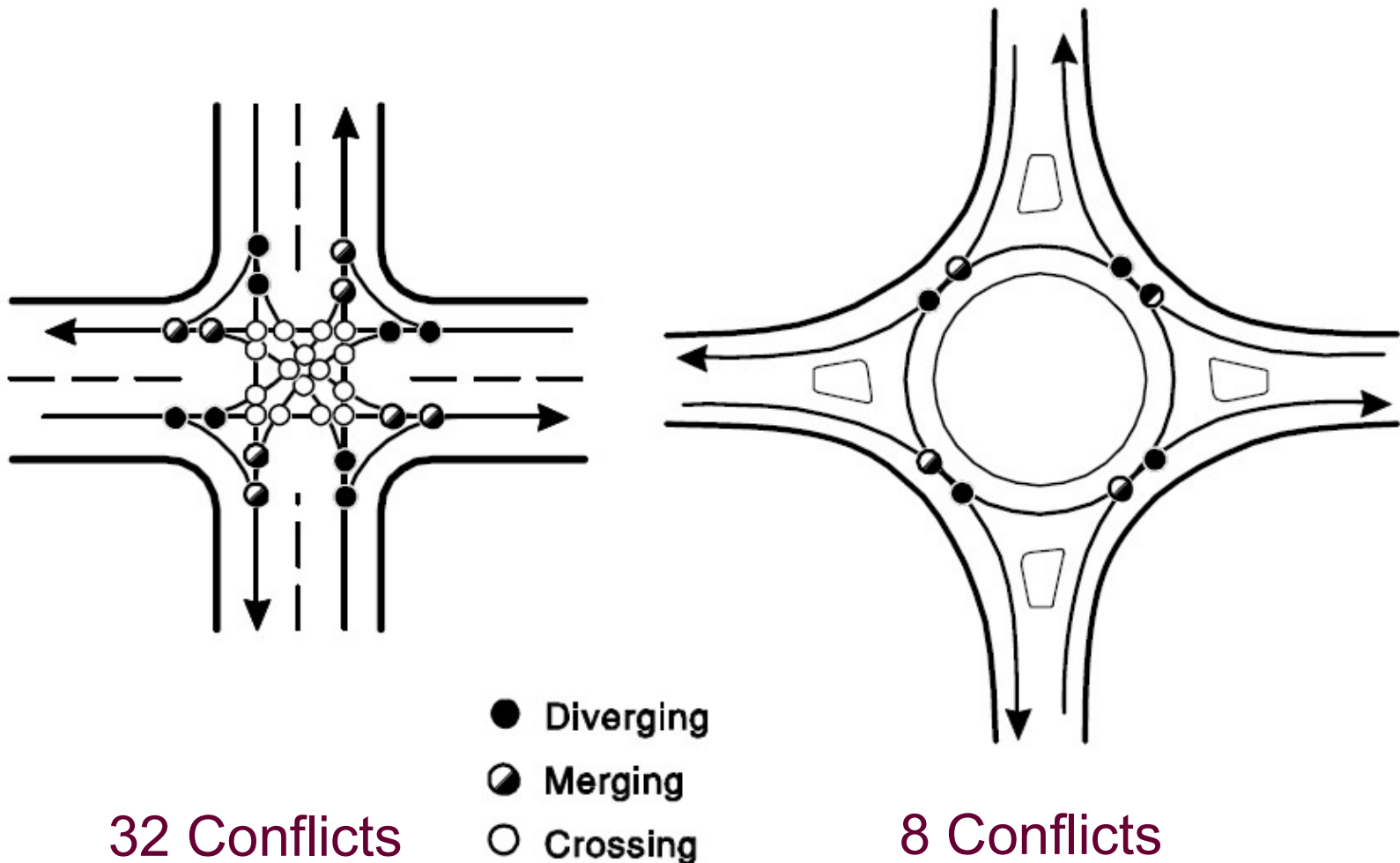


Why are roundabouts safer?

Roundabouts Only Have Right-In and Right-Out Movements

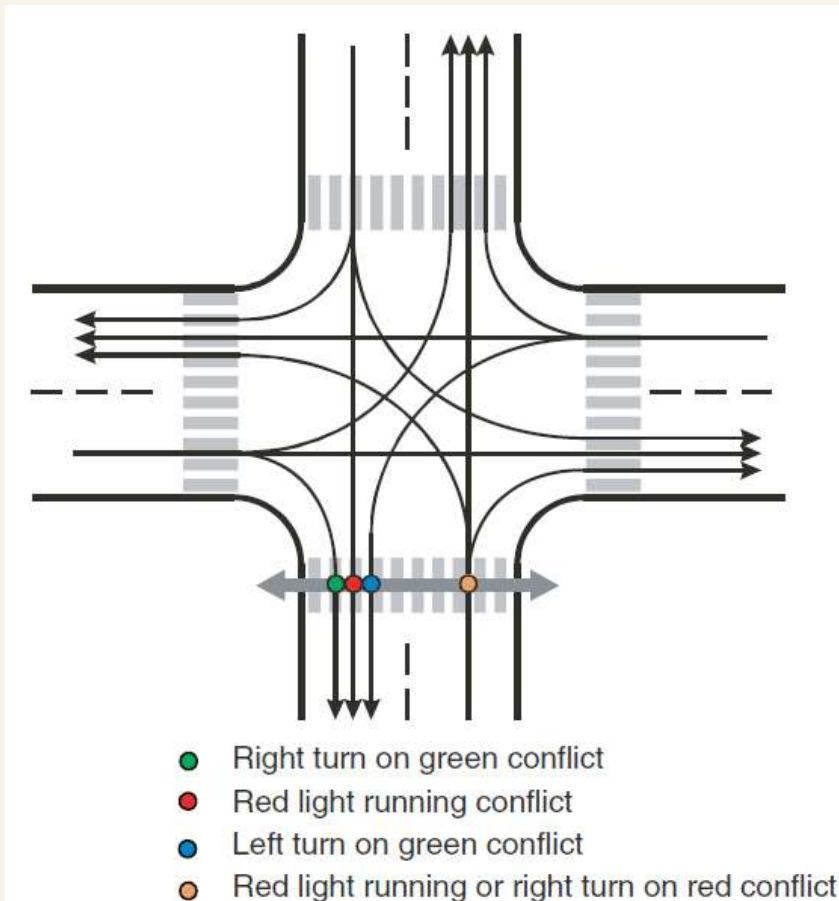


Vehicle Conflict Point Comparison for Intersections with Single-Lane Approaches



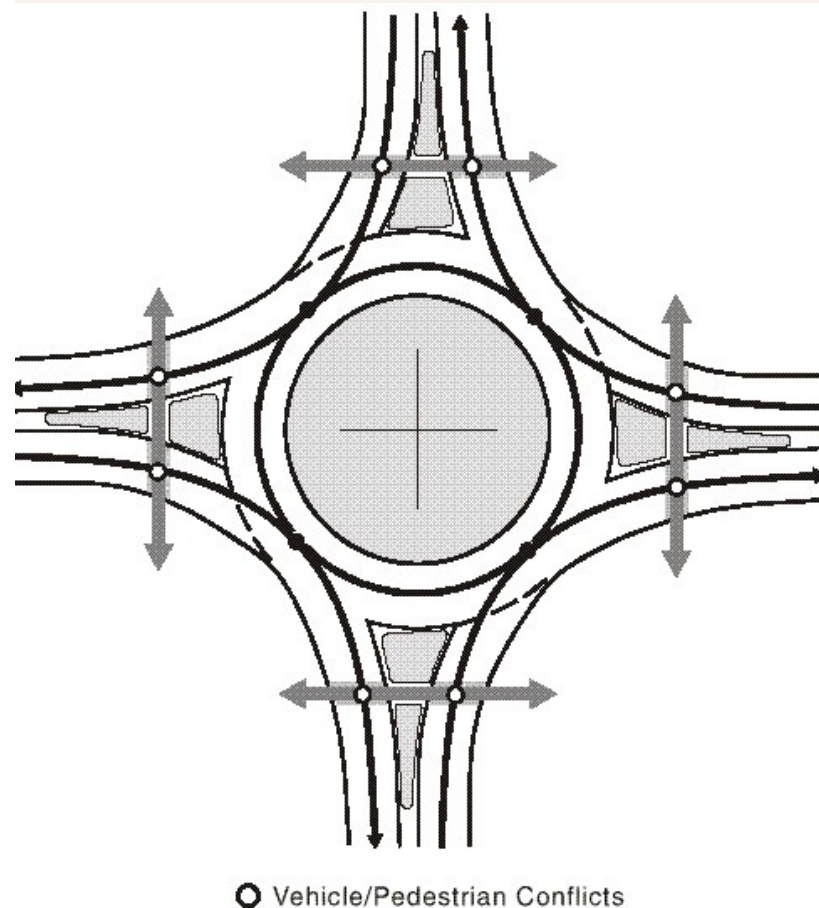
Source: NCHRP Report 672

Comparison of Vehicle / Pedestrian Conflicts



16 Conflicts

Conflict with right turns on
red



8 Conflicts

Slower Vehicle Speeds – 20
mph

Source: NCHRP Report 672

Where are Roundabouts Appropriate?

Operation Considerations

Roundabouts should be considered under a wide range of conditions:

- Replacement of two-way stops when side street delay becomes excessive
- Replacement of signalized intersections where certain unbalanced movements cause inefficiency
 - *Roundabouts accommodate a wide range of side road volumes and generally process left turns more efficiently than all-way stop control or traffic signals*

Roundabout Operation

Level of Service and Performance

CURRENT YEAR ANALYSIS

DIRECTION	AM PEAK HOUR 2021 LOS/DELAY	PM PEAK HOUR 2021 LOS/DELAY
NB SR-123	A/6 SEC	C/21 SEC
SB SR-123	C/15.5 SEC	A/9 SEC
EB SCHOOL DRIVE	B/12 SEC	A/8 SEC
WB COMMUNITY PARK DRIVE	A/7 SEC	B/13 SEC

DESIGN YEAR ANALYSIS

DIRECTION	AM PEAK HOUR 2041 LOS/DELAY	PM PEAK HOUR 2041 LOS/DELAY
NB SR-123	A/7 SEC	D/35 SEC
SB SR-123	D/26 SEC	B/11 SEC
EB SCHOOL DRIVE	B/15 SEC	A/9 SEC
WB COMMUNITY PARK DRIVE	A/7 SEC	C/16 SEC

- 1. DESIGN YEAR ACCOUNTS FOR 20% GROWTH OVER 20 YEAR PERIOD**
- 2. DESIGN YEAR LOS MAY ALSO IMPROVE BASED ON CRITICAL HEADWAY REDUCTIONS**

Roundabout “Evolution”

Design Resources



2009 – MUTCD adopts new conventions for signing and marking US roundabouts (especially different for multi-lane roundabouts)



2010 – Roundabouts: An Informational Guide – Second Edition

Supersedes the 2000 FHWA publication

www.trb.org/Publications/Blurbs/164470.aspx

Roundabout Alternatives

Programming and Funding Costs

Thank You!

Scott Campbell, P.E.
Senior Project Manager
CT Consultants, Inc.
SCampbell@ctconsultants.com
614-779-1136

David Rotella, P.E., PTOE
Project Manager
CT Consultants, Inc.
DRotella@ctconsultants.com
513-792-8428

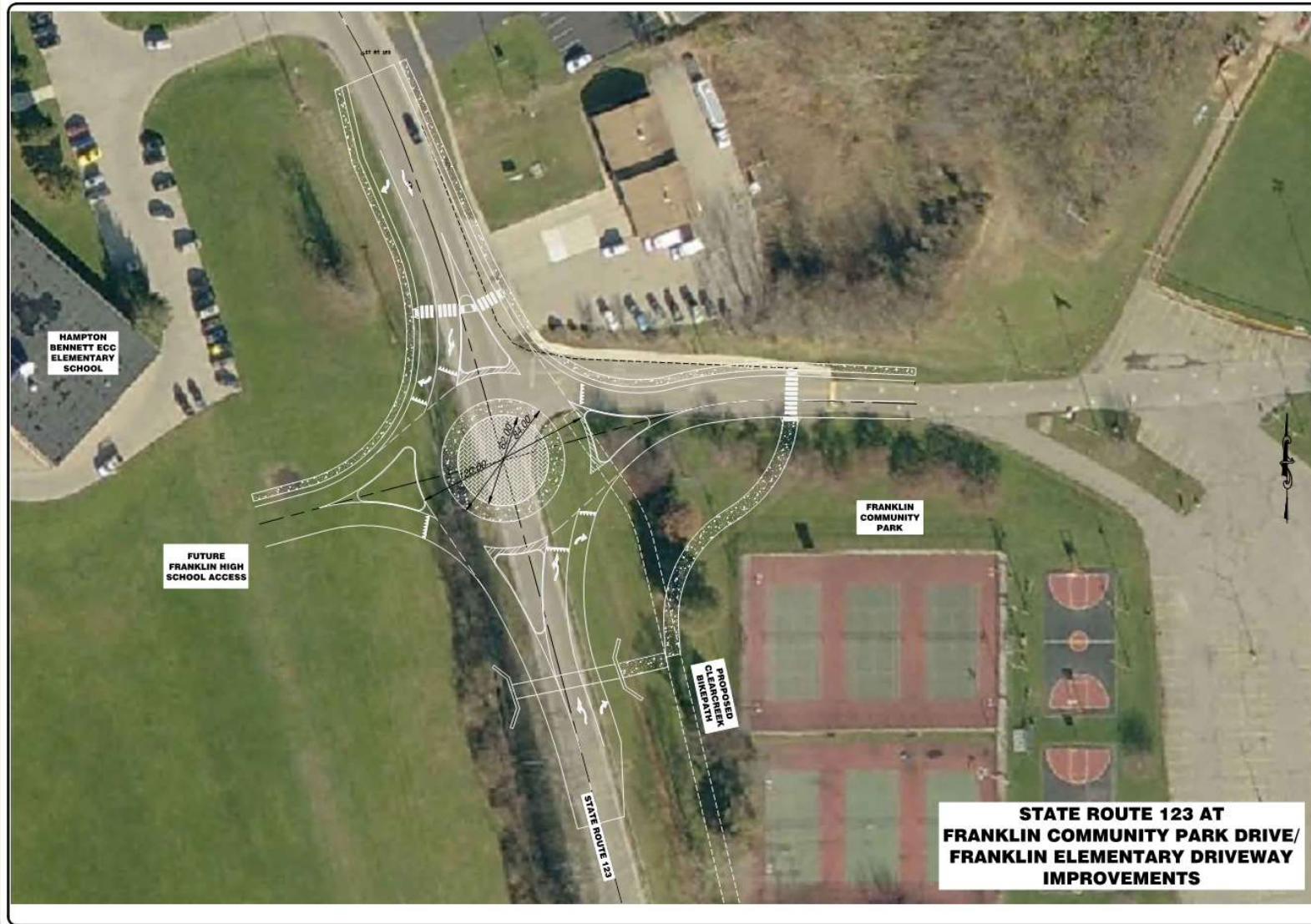


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Roundabout Design Concept

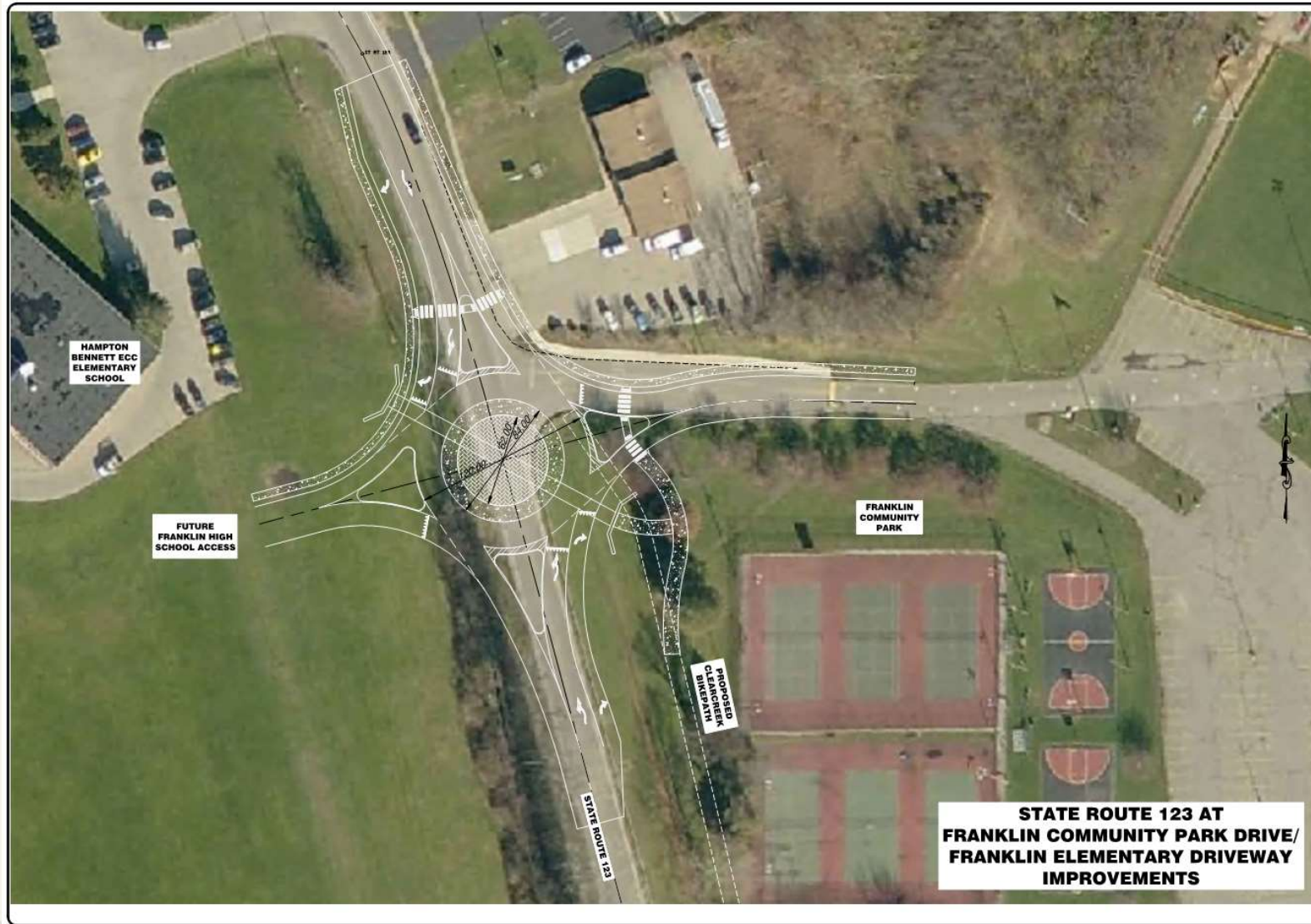
90 Degree Pedestrian Tunnel



PRELIMINARY	
DATE	
REVISION	
NO.	
SCALE	1" = 60'
DATE	10/10/2016
DESIGNED BY	ESP
INVEST BY	ES&C
APPROVED BY	ESP
CITY OF FRANKLIN WARREN COUNTY, OHIO	
EXHIBIT 1A FOR S.R. 123 IMPROVEMENTS	
PROJECT NO.	
18021008	
DRAWING NAME	
EXH1	
SHEET	OF
1	1

Roundabout Design Concept

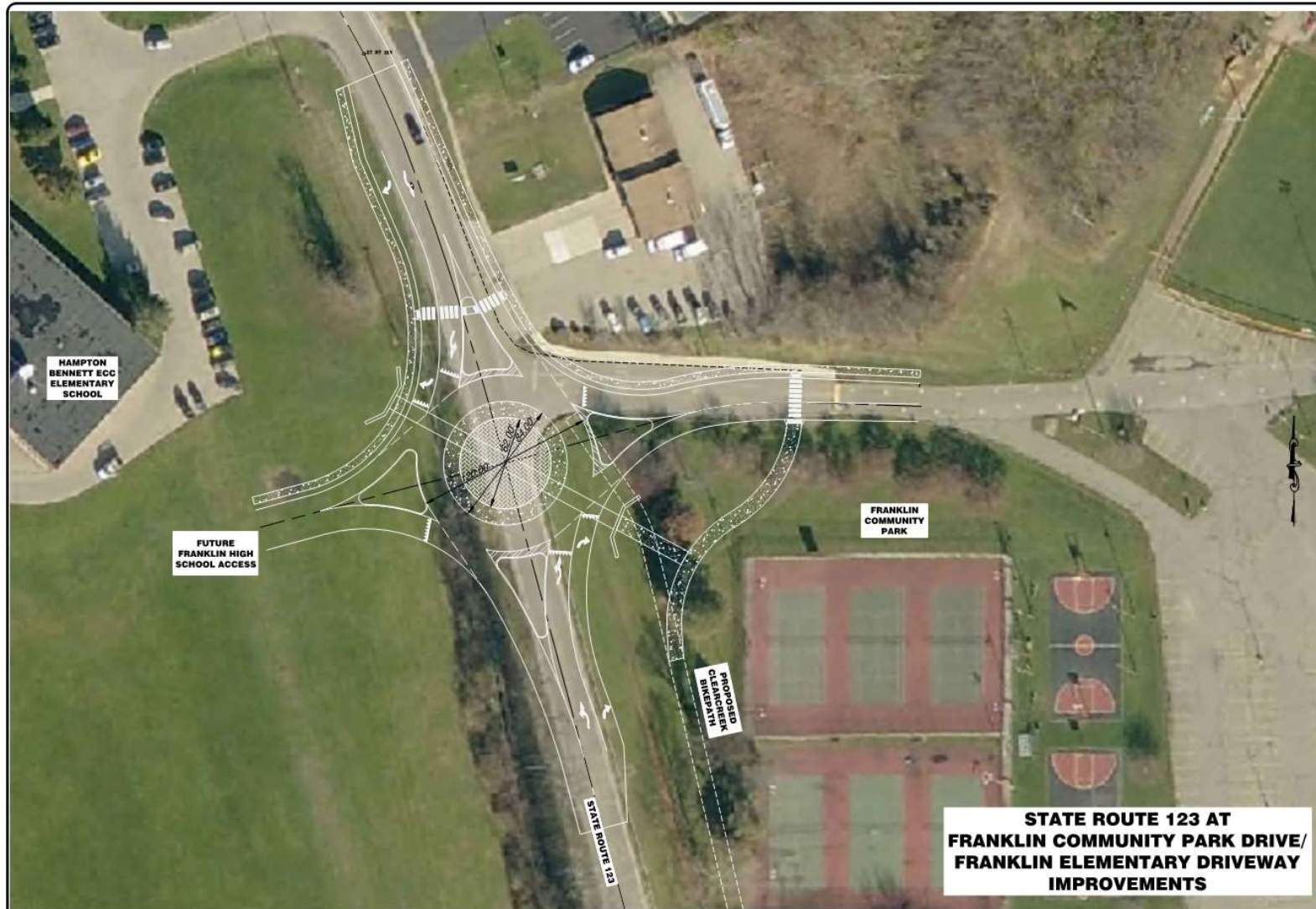
45 Degree Pedestrian Tunnel



PRELIMINARY	
DATE	
REVISION	
NO.	
SCALE	1" = 60'
DATE	10/01/2016
DESIGNED BY	ESP
CHECKED BY	ESP
APPROVED BY	ESP
PROJECT NO.	18021008
PROJECT NAME	EXH1
SHEET	OF
1	1

Roundabout Design Concept

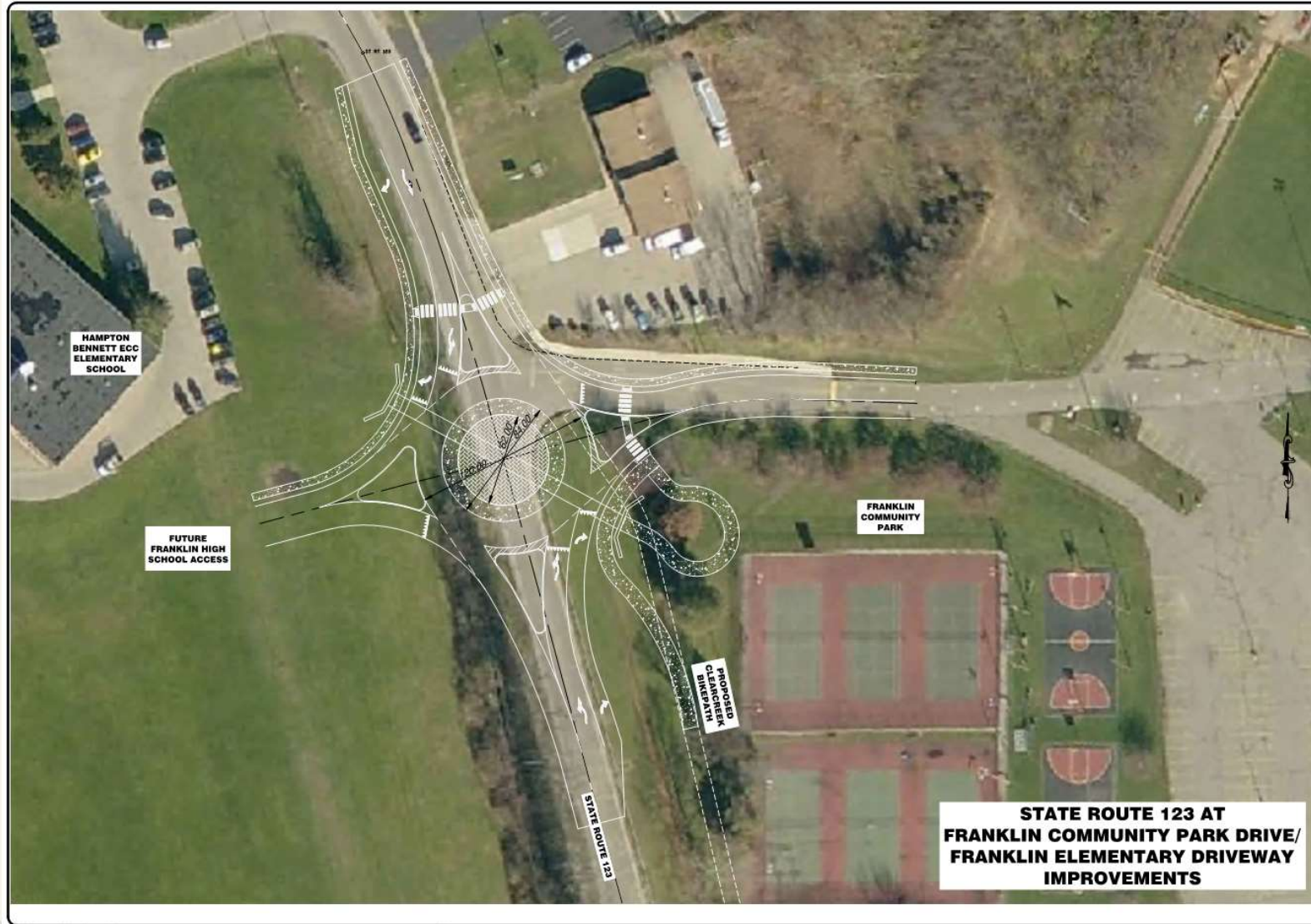
45 Degree Pedestrian Tunnel



PRELIMINARY	
DATE	
DESCRIPTION	
NO.	
SCALE	1" = 40'
DATE	10/9/2018
DESIGNED BY	JEP
CHECKED BY	JSC
DATE	10/9/2018
PROJECT NO.	18021003
PROJECT NAME	CITY OF FRANKLIN WARREN COUNTY, OHIO
EXHIBIT	EXH1
SHEET	1
OF	1

Roundabout Design Concept

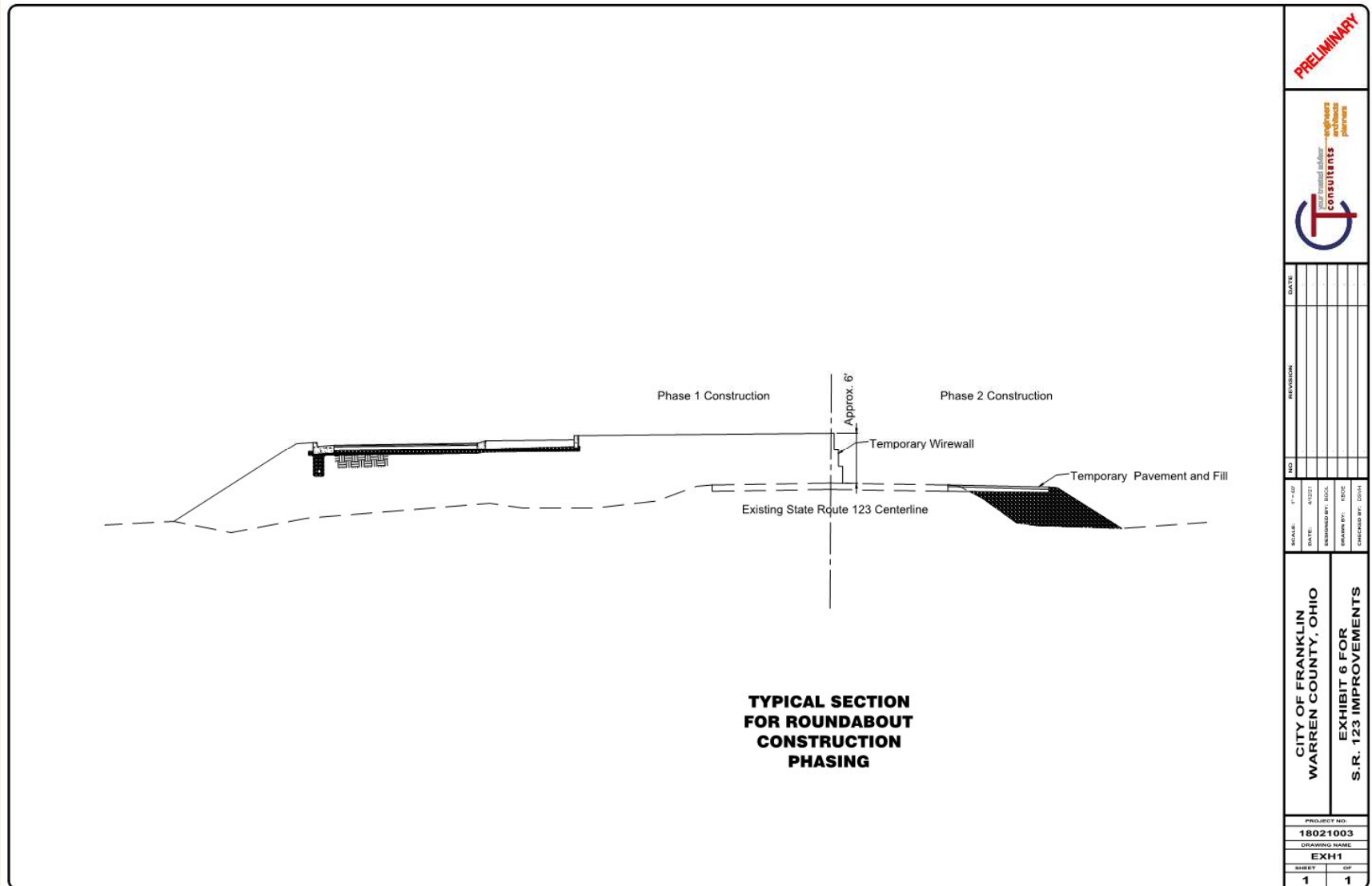
45 Degree Pedestrian Tunnel



PRELIMINARY	
DATE	
REVISION	
NO	
SCALE	1" = 60'
DATE	10/7/2016
REVISION BY	JEP
DESIGNED BY	JSC
CHECKED BY	CPH
CITY OF FRANKLIN WARREN COUNTY, OHIO	
EXHIBIT 3 FOR S.R. 123 IMPROVEMENTS	
PROJECT NO. 18021003	
EXHIBIT NAME EXH1	
SHEET	CP
1	1

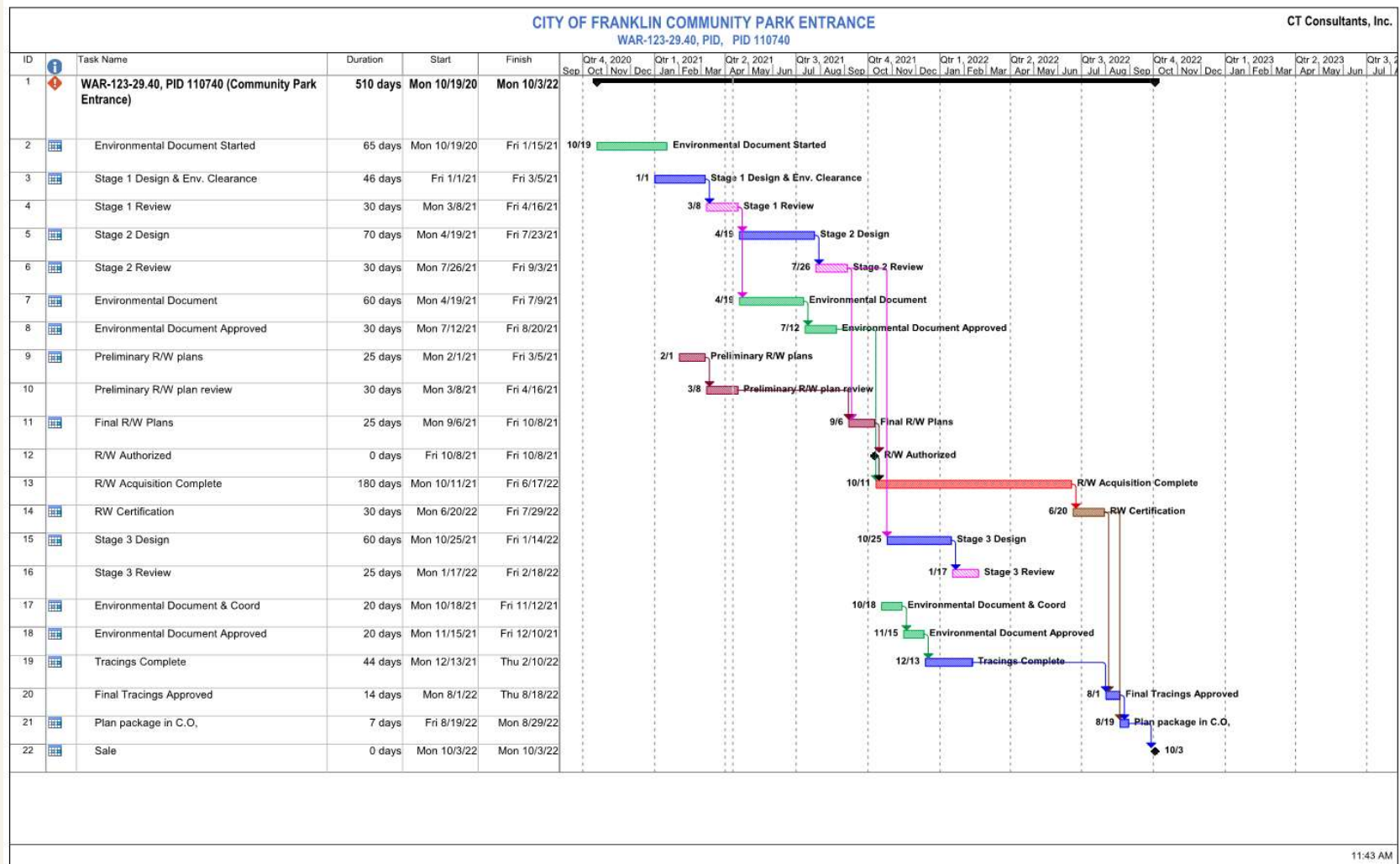
Roundabout Design Concept

45 Degree Pedestrian Tunnel



Current Project Schedule

WAR-123-29.40, PID 110740





City of Franklin ODOT LPA Project
WAR-123-29.40, PID 110740
Project Information Sheet
April 12, 2021

PROJECT DESCRIPTION

The City of Franklin in cooperation with Ohio Department of Transportation is proceeding with a project to perform environmental analysis and engineering design to improve the intersection of SR-123 (6th Street) with the Community Park access driveway and the proposed entrance to the parking facility for the new Franklin High School on the western side of SR-123.

This proposed improvement is currently scoped for a signalized intersection; however, a roundabout is an alternative that is being considered by the City. Either alternative will be designed to meet additional traffic demand and operate safely and efficiently. The new High School is in close proximity to the Community Park and high vehicle and pedestrian volumes from the high school will likely cross SR-123.

The City of Franklin is moving forward with design of a 10-foot multi-use path trail project that will connect and provide a safe link for both pedestrians and bicyclists to travel between the City of Franklin's Community Park and the City of Springboro's Hazelwood Park. Ultimately, the City plans to connect this path to the Great Miami Trail.

CURRENT CONDITIONS AND THE NEED FOR ACTION

SR-123 is a primary arterial leading into the central business district for the City of Franklin. This region of Warren County and areas around the City of Franklin are expected to experience growth through 2040 according to the Miami Valley Regional Planning Commission. Because of this, SR-123 will likely experience traffic growth as well. The signalized intersection or roundabout will be designed to meet that growth. Access into the City of Franklin via SR-123 will truly be a gateway into the community with a beautiful park, new High School and vibrant community.

Currently, there is no signal or roundabout at Franklin's Community Park or the school property on the western side of SR-123. A safe signalized intersection or roundabout is under consideration. The Franklin City School District has asked the City to consider including a pedestrian tunnel feature under SR-123 to allow student and the general public cross under SR-123 to a from the Community Park without navigating the pedestrian crossings at the roundabout. The tunnel would also allow an alternate access route for the High School's small vehicles to transport equipment to the athletic facilities in the park.

WHAT ARE THE ADVANTAGES OF ROUNDABOUTS?

- Less Vehicle / Vehicle Conflict Points
- Less Pedestrian / Vehicle Conflict Points
- Greater safety primarily achieved by slower speeds and elimination of left turns
- Efficient traffic flow: Up to 50% increase in traffic capacity
- Reduced Pollution and fuel usage: Less stops, shorter queues and no left turn storage
- Money saved: No signal equipment to install or maintain, plus savings in electricity
- Community benefits: Traffic calming
- Enhanced aesthetics by landscaping

COMPARISON FACTORS OF SIGNAL & ROUNDABOUT

Intersection Comparison Factors	Signal	Roundabout
Approach Speeds	35 mph	20 mph
Vehicle / Vehicle Conflict Points	32	8
Vehicle / Pedestrian Conflict Points	16	8
Directions pedestrians need to look	4	1
Traffic Capacity	Adequate	More efficient

PROJECT COSTS

	4-Way Signalized Intersection	Roundabout	Roundabout & 90° Tunnel	Roundabout & 45° Tunnel
Total	\$ 827,346	\$ 2,196,000 +/-	\$ 3,066,800+/-	\$ 3,474,800 +/-
Difference	-	1,368,654	2,239,454	2,647,454
		-	870,800*	1,278,800*
Grants	Awarded	TBD**	TBD**	TBD**
Federal	530,881			
Local	296,465			

Legislative Cover Memo

Meeting Date: April 19, 2021

Agenda Item: **Resolution 2021-34**
DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, KNOWN AS LOT 58, SYCAMORE GLENN SUBDIVISION, LOCATED ON SCHOLL ROAD, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 08-30-177-013.

Submitted by: Barry Conway, City Engineer

Scope/Description: This resolution will empower the City Manager to accept the identified property within the City of Franklin for One Dollar (\$1.00).

Budget Impact: The \$1.00 will come from the Economic Development Fund, 403-4155-51201.

Exhibits: Exhibit A: General Warranty Deed
Exhibit B: Property Map

Recommendation: Staff Recommends Approval

CITY OF FRANKLIN, OHIO
RESOLUTION 2021-34

DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, KNOWN AS LOT 58, SYCAMORE GLENN SUBDIVISION, LOCATED ON SCHOLL ROAD, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 08-30-177-013

WHEREAS, Charter of the City of Franklin, Ohio, Effective January 1, 1984, and last amended on January 1, 2018, Section 3.03 POWERS OF COUNCIL, provides:

- (i) The power to acquire title to or interests in real property shall be vested in the Council, whether such property is acquired by: the exercise of the power of eminent domain, purchase, gift, lease, devise, bequest, in trust, or otherwise. The power to sell or otherwise convey, lease, or grant interests in real property shall be vested in the Council. Such sale, conveyance, lease or grant, shall be in the manner provided by the ordinance authorizing the sale, conveyance, lease, or grant provided that real estate shall not be sold or leased except to the highest and best bidder after competitive bids have been received pursuant to a notice of the proposed sale or lease published once a week for four (4) consecutive weeks in a newspaper of general circulation in the City. Written notice of intent to sell or lease real property shall be posted on the real estate to be sold or leased in a conspicuous location on such property and shall remain posted for four (4) consecutive weeks. The requirement that real estate be sold or leased only after competitive bidding may be waived upon the vote of at least five (5) members of the Council provided, however, that the Council shall give notice of its intent to dispense with competitive bidding by publication of such intent in the manner prescribed herein and by the reading of such intent at two consecutive regular Council meetings. Notwithstanding any other provision of this section, property may be sold or leased to the United States, the State of Ohio, or any governmental unit or agency thereof, without competitive bidding, by ordinance, upon the vote of at least five (5) members of Council. (Ord 17-17, 11-17-17; passed by electorate 11-17-17, eff. 1-1-18);

WHEREAS, the City Manager, under the Charter of the City of Franklin, Ohio, Effective January 1, 1984, and last amended on January 1, 2018, Section 3.03 POWERS OF COUNCIL, appoints the City Contracting Officer;

WHEREAS, the City desires to acquire permanent parcel number 08-30-177-013, known as Lot 58 of the Sycamore Glenn Subdivision, located on Scholl Road, Franklin, Ohio 45005;

WHEREAS, the Seller has offered to sell the property to the City of Franklin for \$1.00 dollar;

WHEREAS, the City benefits, as to its citizens, when the City purchases certain property situated in city limits that it deems desirable to accomplish the objectives established by council and carried out by staff;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of the members of Council present concurring, that:

Section 1. The City Manager is hereby empowered and directed, by Council under Charter Section 3.03(i), to carry out the City's objectives by acquiring title to or interests in the real property identified by permanent parcel number 08-30-177-013 and known as Lot 58 of the Sycamore Glenn Subdivision, located on Scholl Road, Franklin, Ohio 45005, said parcel to be sold to the City of Franklin in the amount of One Dollar and Zero Cents (\$1.00);

Section 2. The General Warranty Deed is attached hereto as Exhibit A and the Property Map depicting the parcel to be acquired is attached hereto as Exhibit B. The City Manager is authorized to execute all necessary documents to acquire title to or interests in the identified real property.

Section 3. This Resolution shall become effective immediately upon its passage.

ADOPTED: April 19, 2021

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on April 19, 2021

Khristi Dunn, Clerk of Council

Exhibit A

GENERAL WARRANTY DEED

FOR GOOD AND VALUABLE CONSIDERATION, in the amount of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Sycamore Glenn Homeowners Association, Inc. an Ohio Corporation, Grantor, has, granted, donated and conveyed and by these presents does grant, bargain, donate and convey with general warranty covenants, to the City of Franklin, an Ohio municipality, Grantee, whose tax mailing address is 1 Benjamin Franklin Way, Franklin, Ohio, 45005, all right, title, interest and claim to the following real property in the City of Franklin, County of Warren, State of Ohio, with the following legal description:

Situated in the City of Franklin, in the County of Warren and the State of Ohio:

Being Lot Numbered 58 as the same is known and designated on the recorded Plat of Sycamore Glenn Subdivision, a subdivision of lots and lands located in Section 30, Town 3, Range 4, City of Franklin, Franklin Township, Warren County, Ohio, recorded in Plat Book 71, pages 43, 44, and 45.

The Grantor places no restrictions upon Grantee as to how the property is used by Grantee.

Permanent Parcel Number: 08-30-177-013

Prior Deed Reference: Official Record Volume 4949, Page 839; Book 3280, Page 655, Warren County, Ohio Records

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the above-described property unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever IN FEE SIMPLE; so that neither Grantor nor Grantor's heirs, administrators, executors, successors and/or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

Grantor further WARRANTS TITLE and agrees to forever defend all and singular the said property unto the said Grantee, its heirs, successors and/or assigns, against all lawful claims and demands whatsoever.

Executed this _____ day of April, 2021.

GRANTOR:

Sycamore Glenn Homeowners Association, Inc.

By: _____
(print name and title)

STATE OF OHIO)
 : SS
COUNTY OF WARREN)

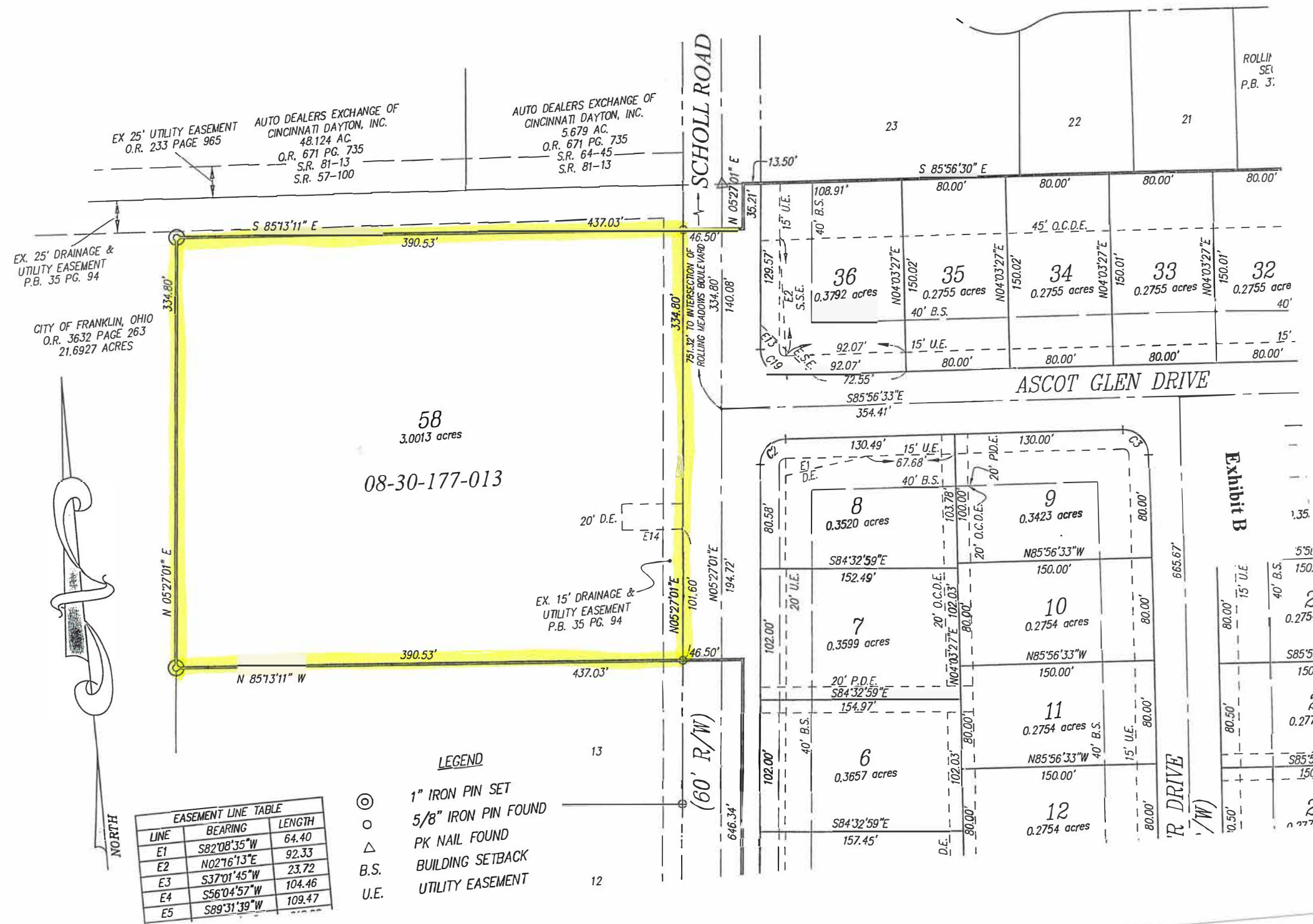
BE IT REMEMBERED, that on this _____ day of April, 2021, before me, the subscriber, personally came the above named Sycamore Glenn Homeowners Association, Inc., the Grantor in the foregoing deed and as such, acknowledged the signing of the same to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year last aforesaid.

Notary Public

This instrument prepared by:

Lynnette Dinkler
Law Director – City of Franklin
DINKLER LAW OFFICE, LLC
5335 Far Hills Avenue, Suite 123
Dayton, OH 45429



Legislative Cover Memo

Meeting Date: April 5, 2021

Agenda Item: **Resolution 2021-35**
AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH THE DUKE ENERGY TO CHANGE OUT OLD
STREET LIGHTS WITH LED LIGHTS

Submitted by: Steve Inman, Public Works Director

Scope/Description: This is a service contract with Duke Energy to change out 636 streetlights to LED lights, at a cost of \$346,903.45. The LED lights would save the city based on Duke estimates close to \$50,000 a year. With extra money being received in Lighting assessments our pay back would be in 5 years.

Budget Impact: Street Lighting Assessment Fund 520

Exhibits: Exhibit A: Outdoor Lighting Service Agreement

Recommendation: Approval.

CITY OF FRANKLIN, OHIO
RESOLUTION 2021-35

**AUTHORIZING A CONTRACT WITH DUKE ENERGY FOR THE PUBLIC WORKS DEPARTMENT FOR THE
INSTALLATION OF LED STREET LIGHTS**

WHEREAS, the Council of the City of Franklin finds it to be in the best interests of the health, safety and welfare of its residents To change out the Old street lights with LED lights for the Public Works Department; and

WHEREAS, Duke Energy currently has sole priority over streets light in the City of Franklin; and

WHEREAS, pursuant to Section 5.05 of the City's Charter, competitive bidding is not required when not required pursuant to State law, but Council must approve the expenditure of funds when the contract price exceeds \$50,000;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members present concurring, that;

Section 1. The City Manager is hereby authorized to execute, on behalf of the City, a contract with Duke Energy., for the purchase of new LED Street Lights in the total amount of \$346,903.45, upon such terms and conditions as approved by the Director of Law.

Section 2. A copy of the Outdoor Lighting Service Agreement is attached as Exhibit A.

Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and Chapter 105 of the Codified Ordinances.

Section 3. This Resolution shall become effective immediately upon its passage.

ADOPTED: April 19, 2021

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on April 19, 2021

Khristi Dunn, Clerk of Council



2/3/2021

CITY OF FRANKLIN
1 BENJAMIN FRANKLIN WAY
FRANKLIN , OH 45005-2478

Subject: FRANKLIN LED UPGRADE TOTAL COST FROM PHASE 1-11

FRANKLIN, OH 45005

Dear Valued Customer:

Thank you for the opportunity to provide you with new outdoor lighting. Enclosed are two copies of the Outdoor Lighting Service Agreement, (the "Agreement"), along with a site drawing showing the light pole locations for your review and approval. A detailed description of the lighting equipment is shown on page 2 of the Agreement.

This Agreement also indicates the different estimated monthly payment choices available for the lighting system. These monthly costs are divided into three components (Equipment, Maintenance and Energy Usage), and are based on the estimated work order costs of the Equipment described in the Agreement, which are unique to this installation. The equipment charges will no longer be reflected on your monthly bill at the end of Initial term you choose. This will be a one-third to one-half ($1/3 - 1/2$) decrease of the total bill, depending on the type of Equipment and the wattage of the lights. The estimated Energy and the Maintenance charges will continue for as long as the Equipment is in service. Please review pages 3 & 4 of the Agreement for more detailed information regarding terms.

Options A through F represent your choices for the monthly lighting system payment amount. You may choose to pay the total lump sum amount, upfront, or spread this cost over 1, 3, 5, 7, or 10 years. The Energy and Maintenance charges will remain the same no matter which Option is chosen. Please choose the Option you prefer and write the corresponding letter in the box near the bottom of page 1 of the Agreement.

At the bottom of page 2 is a disclaimer with regard to the amount of light output. This indicates that the lights to be installed are pursuant to your request and may or may not meet minimum Illuminating Engineering Society (IES) standards.

Please sign both copies of the document, return one copy to my attention at the address noted below and retain one for your records. Please note that this proposed Agreement and the dollar amounts quoted will expire ninety (90) days from the date of this letter. If we do not receive your signed Agreement within that time period, a new agreement and proposal will be issued only at your request.

If you require revisions, or there arise unforeseen circumstances which change the original estimated cost of this installation, we will review the situation with you and, if necessary, send you a new proposal. Your signature on this Agreement is your approval for us to order the materials, process the work order and proceed with the installation.


Sincerely,

Nate Fecke
Nate.Fecke@duke-energy.com

OUTDOOR LIGHTING SERVICE AGREEMENT

Agreement Information	Equipment, Energy and Maintenance			TODOLCLM0000020007		2/3/2021
	Agreement Coverage			Agreement Number		Current Date
10402209	38300927	75025	S484	V461	TODOL	UDES
Customer Account Number	Request Number	Corp.	CP Center	LOC	Work Code	Rate Code

OUTDOOR LIGHTING SERVICE AGREEMENT



Duke Energy Ohio, 139 East Fourth Street, Cincinnati, OH 45202

Business Name				This Agreement has an Initial Term selected by Customer. The Initial Term begins when Service is in operation; after expiration thereof, Service continues with annual renewals, until either party terminates with written notice to the other party.
Customer Name	CITY OF FRANKLIN			
Service Location or Subdivision	FRANKLIN LED UPGRADE TOTAL COST FROM PHASE 1-11			
Service Address				
Service Address				Notes:
Service City, State, Zip code	FRANKLIN	OH	45005	
Mailing Name	CITY OF FRANKLIN			
Mailing Business Name				
Mailing Address	1 BENJAMIN FRANKLIN WAY			
Mailing Address				
Mailing City, State, Zip code	FRANKLIN	OH	45005-2478	

PROPOSALS BELOW ARE VALID FOR 90 DAYS FROM THE CURRENT DATE. PROPOSAL EXPIRATION IS 5/4/2021

AGREEMENT MUST BE SIGNED AND RETURNED BEFORE THE EXPIRATION DATE.

After the Initial Term expires, the monthly equipment charges will no longer be reflected on the monthly bill, though and energy and maintenance charges continue for the life of the lighting system covered by this agreement.

CHOOSE THE EQUIPMENT PAYMENT AMOUNT AND ASSOCIATED INITIAL TERM	EQUIPMENT Monthly Amount for System Per Option	MAINT. & Operating System Amount Per Month	ENERGY USE * Estimated Monthly Total	TOTAL NUMBER OF LIGHTS in Project	* ESTIMATED system charge total during initial term	** AVERAGED Estimated Monthly Charge PER LIGHT	
						DURING Initial Term	AFTER Initial Term
Option A - Onetime Lump Sum for Equipment	\$346,903.45	\$1,246.56	\$115.18	636	\$1,361.75	\$2.31	\$2.31

* Estimated Energy is based on current charge per kWh and does not include taxes and energy rate tariff riders which will cause slight fluctuation in monthly costs.

** The ENERGY portion may cover more than one luminaire wattage size which results in estimated Averaged Monthly costs shown above. The ENERGY may also be METERED. If this option is chosen the Energy usage information above is superseded by the METERED usage and charges.

See Section I, page 2 for further lighting equipment and cost detail. Requests for changes in number of lights and poles, pole locations, equipment or other requests will result in a recalculation of the amounts above. Please see attached drawing or Exhibit 'A' for the proposed placement of lighting equipment.

PLEASE INDICATE INITIAL AGREEMENT TERM CHOICE FROM OPTIONS ABOVE (A,B,C,D,E,F)

☐

DECLINE

☐

IN WITNESS WHEREOF, the parties hereto have caused two copies of this Agreement to be executed by a duly authorized representative(s), effective the Current Date first written above. This Lighting Service Agreement ("Agreement") is made and entered into by the subsidiary of Duke Energy Corporation, a Delaware corporation, named above (hereafter, "Company"). Neither Duke Energy Corp. nor any of its other affiliated companies are parties to this Agreement.

Duke Energy Representative	AND	Customer / Representative
Signature _____		Signature _____
Printed Name Nate Fecke		Printed Name _____
Date 2/3/2021		Date _____

If more space is required for additional Customer signatures, please attach a dated letter with signatures on it and reference this Agreement

OUTDOOR LIGHTING SERVICE AGREEMENT

WITNESSETH:

WHEREAS, Customer desires to have: a Company-owned outdoor lighting system ("System"), on designated property; and

WHEREAS, Company has the ability to own, install, operate and maintain an outdoor lighting system.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I. — EQUIPMENT AND INSTALLATION

1.1 In accordance with conditions set forth herein, Company agrees to install for Customer all necessary equipment to provide, operate and maintain an outdoor lighting system. The cost of any additional electrical distribution facilities required to provide energy to the System may or may not be included in the monthly terms of this Agreement according to Company discretion.

1.2 A detail of the locations of the equipment constituting said System is set forth in a drawing or print marked "EXHIBIT A", which is attached hereto, made a part hereof and incorporated herein by reference.

1.3 The System consists of the following:

A. LUMINAIRE DETAIL INFORMATION

	LUMINAIRE STYLE DESCRIPTION LED = Light Emitting Diode, HPS = High Pressure Sodium, MH = Metal Halide Lamp Source	INITIAL LUMENS	LAMP WATTS	IMPACT WATTS	EST ANNUAL KWH EA	MAINT/ OPERATION CHG EACH	*EST. ENERGY CHG	NUMBER OF LIGHTS	*ESTIMATED LINE TOTAL
3	Roadway LED 110W Gray (RAL7038) Type III	9,336	110	0.1100	458	\$2.81	\$0.25	3	\$9.17
4	Light Fixture Roadway LED 220W Gray (RAL7038) Type IV	18,642	220	0.2200	915	\$2.81	\$0.50	9	\$29.76
SECTION I - A - TOTALS								*ESTIMATED MONTHLY TOTAL COST	38.93

*Tariff riders and sales tax are not included therefore the total billing amount will be different than listed above.

B. ENERGY USAGE — BASED ON UTILITY REGULATORY COMMISSION APPROVED RATES

Current Rate per kWh 0.006531 Rate Effective Date 7/2/2019 Estimated Annual Burn Hours 4,160

**CALCULATION FOR ESTIMATING UNMETERED ENERGY USAGE	
Impact Watts = the energy used by the lamp watts plus ballast watts.	
a. Impact watts times estimated Annual Burn Hours as shown in lines above equal annual watt hours.	c. Annual kWh divided by twelve (12) months equals monthly kWh.
b. Annual watt hours divided by 1000 hours equals annual kilowatt hours (kWh).	d. Monthly kWh times current rate per kWh equals the monthly dollar amount for each item.

C. POLE TYPE AND QUANTITY UTILIZED IN THIS PROJECT* (existing and new pole installation information)

ITEM #	POLE DESCRIPTION	POLE QUANTITY
1	Existing Pole	12

* Existing poles have no pole installation charges; new pole charges are included in Luminaire details.

D. MISC. EQUIPMENT AND QUANTITY UTILIZED IN THIS PROJECT*

OTHER EQUIPMENT	
Quantity	Other Equipment Style
9	Side Mount Bracket - 18 IN - Wood Pole

1.4 LIGHTING LAYOUT DESIGN DISCLAIMER (CUSTOMER TO SIGN WHEN APPLICABLE)

Company has installed the System in accordance with Customer's specifications concerning the design and layout (including pole locations, number and types of lights). Company has not designed the System. Customer is responsible for all aspects of the design and layout of the System. Customer understands that its design and layout of the System may not be in accordance with minimum footcandle and lighting uniformity standards. Therefore, Customer agrees to release, indemnify, hold harmless, and defend Company from and against any and all claims, demands, causes of action, liabilities, losses, damages, and/or expenses resulting from (or alleged to result from) the design and/or layout of the System, including damage to or destruction of personal property, personal injuries including death, and reasonable attorneys' fees.

Customer's Signature XXX Date

OUTDOOR LIGHTING SERVICE AGREEMENT**SECTION II — CUSTOMER OPTIONS FOR SYSTEM OPERATING HOURS**

ALL HOURS OF OPERATION FOR ANY OPTION MUST BE BETWEEN THE HOURS OF DUSK-TO-DAWN (ONE HALF HOUR AFTER SUNSET TO ONE HALF HOUR BEFORE SUNRISE) TO QUALIFY FOR THIS ENERGY USAGE RATE

- 2.1 Option A is the typical dusk-to-dawn photoelectric cell automatically operated System. Lights turn on approximately 1/2 hour after sunset and shut-off 1/2 hour before sunrise. This may be a monthly estimated energy usage based on luminaire impact wattage and lamp source equally over twelve months (See Section I - B, above) or metered using actual energy usage plus a monthly meter charge.
- 2.2 Option B - AVAILABLE FOR ONLY MUNICIPAL OPERATED AREAS AND WITH COMPANY APPROVAL This option is exclusively for seasonal lighted ornaments operated from 120 volt outlets which are mounted near the top of Company poles. Company reserves the right to approve the ornament weight, size, wattage and attachment arrangements before installation. The ornament weight limit is 25 pounds. Initial costs of wiring, outlets and other associated costs will be borne by the Customer on a time and material basis before being energized. Seasonal ornamental lighting will operate dusk to dawn during the months of November 15th through the following January 15th. The total days of operation are approximately 61.
- 2.2.1 After the initial permanent installation of outlets on the poles, the ornaments must be installed and removed seasonally on Company-owned poles between the hours of 8:00 a.m. and 5:00 p.m. by a qualified electrician. Once an outlet is installed any additional outlet maintenance will result in a Customer charge on a time and equipment use basis and billed on a separate invoice for each occasion.
- 2.2.2 Seasonal Ornamental Lighting estimated wattage for each ornament is limited to 350 watts. The estimated Annual usage is 320-333 kWh for each outlet.

SECTION III — ENERGY USAGE COST CALCULATION - See Page 1

- 3.1 Except as otherwise provided in this Agreement, Customer shall pay Company the monthly energy charges. Monthly charges are based on estimated unmetered charges using the calculation methods shown on Page 1 of this Agreement and adding any energy tariff riders and applicable sales tax. Both unmetered and metered outdoor lighting energy usage charges are based on the per kilowatt hour amount approved by the appropriate State Utility Commission.
- 3.2 The "Schedule of Rates, Classifications, Rules and Regulations for Electric Service", and/or General Terms and Conditions of the Company, and all amendments thereto, are filed with and approved by the appropriate State regulatory entity, (the "Commission") and shall be deemed a part of this Agreement as if fully set forth herein.

SECTION IV — SYSTEM MAINTENANCE

- 4.1 Normal maintenance includes the replacement or repair of any item included in the System except seasonal outlets. Maintenance is performed after notification from the Customer that a problem exists and/or during a Company scheduled maintenance cycle. Company will stock only the most common equipment; acquisition of some repair parts could cause a delay in permanent repair.
- 4.2 Normal maintenance covers ordinary wear and tear with proper use of the System. Repairs or replacements requested as a result Customer caused damage will be performed on a time and material cost basis, in which instance an estimate of costs will be provided to the Customer before the work begins. Company reserves the right to charge Customer for repair costs incurred due to vandalism.

- 4.3 Maintenance does not include partial or full System replacement or major repairs due to System age. While many Systems last 15 to 25 years, different types of lighting equipment have different life spans. Lighting equipment suppliers may also discontinue manufacture of certain equipment. End of life for a System will be determined by the Company.
- 4.4 Company reserves the right to update or modify the monthly maintenance charges to reflect changes in Company costs for materials and labor no more often than every three years on a Company assigned schedule, which may not coincide with the term of this Agreement.
- 4.5 Company reserves the right to charge a fee equal to a minimum of one hour labor and transportation costs for trips to disconnect and reconnect lights in a Company-owned lighting System when requested to do so more times than the Company deems necessary.

SECTION V — PAYMENT

- 5.1 Customer hereby agrees to pay Company the monthly costs set forth in accordance with the applicable tariff rate for the energy provided for the term of this Agreement. The estimated monthly amount due are summarized on Page 1 of this agreement and are current at the time the Agreement is initiated. A monthly bill will be rendered and due each month in accordance with the applicable tariff rate and payment rules. Any Customer charge that is not paid in full on or before its due date, shall incur a late fee.
- 5.2 Should any change in the energy usage monthly charges be ordered by the Commission, then payments by Customer to Company for this service shall thereafter be made upon the basis of such new rates as changed and approved by the Commission.

SECTION VI — TERM OF AGREEMENT

- 6.1 Service under this Agreement shall commence as soon as practicable after the System is installed and operational. The Company shall notify Customer in writing as to the date on which service will begin.
- 6.2 The initial term of this Agreement, during which Customer shall take and Company shall render service hereunder, shall be in accordance with the Option indicated on page 1 of this Agreement ("Initial Term"). After the Initial Term, this Agreement shall continue in force and effective in successive automatic one-year extensions unless terminated by either party upon sixty (60) days written notice.

SECTION VI — OTHER TERMS AND CONDITIONS

- 7.1 Other Terms and Conditions set forth in Exhibit "B" hereof are incorporated herein by reference and made a part of this Agreement
- 7.2 This Agreement constitutes the final written expression between the parties. It is a complete and exclusive statement and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the System. However, nothing herein shall preclude either party from commencing an action for unpaid bills, other damages, or breach of prior agreements during the time they were in effect.
- 7.3 This Agreement, the construction of this Agreement, all rights and obligations between the parties to this Agreement, and any and all claims arising out of or related to the subject matter of this Agreement (including tort claims), shall be governed by the laws of the State in which the service is rendered without regard to its conflict of laws provisions.

OUTDOOR LIGHTING SERVICE AGREEMENT

EXHIBIT 'B' - OTHER TERMS AND CONDITIONS

- 1 All System facilities installed by Company under this Agreement are and shall remain the property of Company. The termination of this Agreement for any reason whatsoever shall not in any way affect such ownership by Company, deprive Company of the right either to remove any or all property comprising the System or any part thereof or to use the same in or in connection with the rendering of other service by Company.
- 2 If Customer requests part or all of the System's removal before the end of the System's useful life, including by reason of termination of this Agreement, Customer must pay Company's unrecovered costs of the System minus any salvage value, to be determined at the sole discretion Company, plus System removal costs.
- 3 The obligations of Customer to pay the monthly invoice and any applicable late fees or any amount due and owing to Company as a result of this Agreement or in connection with the rights and privileges granted hereby, are independent of the liabilities or obligations of Company hereunder. Customer shall make all such payments due to Company without any deductions, setoffs or counterclaims against such payments on account of any alleged breach or default by, or claims against, the Company pursuant to this Agreement or otherwise or on account of any claims against or default by any third party.
- 4 Company's installation of the System is contingent upon obtaining adequate easements and rights-of-way, if necessary, and Customer agrees to assist the Company when necessary in obtaining easements or rights-of-way which shall include permission to install and maintain service lines and facilities required for serving and providing the System.
- 5 Company is an independent contractor and not an agent or employee of Customer and nothing contained in this Agreement shall be so construed as to justify a finding of the existence of any relationship between Company and Customer inconsistent with that status. Company shall have exclusive control of and responsibility for its labor relations.
- 6 Company does not warrant nor guarantee the safety of Customer or any third party, nor does it warrant or guarantee the security of Customer's property or any third party property, lighting levels, or uniformity of lighting as a result of Customer's use of the System. Company is not liable for any injury to Customer, or any persons or property arising out of the System use other than that arising from the sole negligence of the company. COMPANY EXPLICITLY DISCLAIMS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EITHER EXPRESSED OR IMPLIED, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.
- 7 If a breach or default occurs, the non-breaching party shall provide the breaching party with a thirty (30) day written notice to cure such default or breach, or if the defect cannot be cured within thirty (30) days, the breaching party shall nonetheless commence to cure such defect and shall, in good faith, complete such cure in as timely and expeditious manner as is feasible in the circumstances. If the breaching party fails to cure or to commence the cure of the defect within the prescribed time frame set forth herein, the non-breaching party, at its sole discretion, shall provide notice to the breaching party of the immediate termination of this Agreement. Events beyond Company's control, including but not limited to acts of nature, electricity outages, and inability to obtain needed replacement parts, shall not constitute breaches of this Agreement.
- 8 Customer desiring a Company-installed System on a public rights-of-way or on other property not under customer's jurisdiction must provide the Company with written permission from the entity with legal jurisdiction over that right-of-way or property before installation will begin. Customer must reimburse Company for costs associated with obtaining easements.
- 9 Company reserves the right to refuse to install Company equipment on another's property, however, any Company agreement to install System luminaires or other Company facilities on poles or structures owned by a third entity is contingent upon receiving written consent for such installation from that entity. Customer will be required to reimburse the Company for monthly fees charged for pole contacts for System attachments on poles or structures not owned by the Company, (i.e., owned by other utilities or entities). This fee will be imposed only when contacting or modifying existing poles to allow for clearances required for the System equipment.
- 10 Company shall not be liable for any claims, demands, cause of action, liabilities, loss, damage or expense of whatever kind or nature, including attorney fees, incurred by Customer for actions involving a structure not Company-owned on which the Company has placed Company-owned equipment at Customer request. Additionally, the Company will not be responsible for any repairs needed by the structure that is not owned by Company. If the structure becomes unsuitable, or unsafe to support Company-owned equipment the Company retains the right to remove the equipment from the structure. If Company equipment is removed under these conditions Customer will owe Company a pro-rated amount for the removed equipment plus removal costs minus salvage value.
- 11 When changes are requested by Customer at any time after the System is installed and before the normal end of System life, Company will evaluate and estimate the costs of the changes. The changes will be made after the Customer pays the agreed upon amount if any to make changes. Changes include such matters as relocating poles, changing luminaire styles (post top, cobrahead, floodlight), their locations, wattage, and lamp source (e.g., metal halide, high pressure sodium). Any such agreed upon changes will be documented either by a new or an amended Agreement. New equipment added to the System will require a new Agreement.
- 12 If any part, term, or provision of this Agreement is adjudged by a court of competent jurisdiction to be contrary to the law governing this Agreement, the validity of the remaining parts, terms, and provisions shall not be affected thereby.
- 13 This Agreement, and all the terms and provisions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, personal representatives, and/or permitted assigns.
- 14 Each party to this Agreement represents that it is sophisticated and capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the Agreement.
- 15 No delay of or omission in the exercise of any right, power or remedy accruing to any party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of any future exercise of any right, power or remedy.
- 16 Neither party shall assign this Agreement without the prior written consent of the other party, which consent, if given shall not relieve the party of making such assignment from full responsibility for the fulfillment of its obligations under this Agreement. PROVIDED, THAT the Company may assign this Agreement to its parent or any subsidiary entity or to an affiliate.

Legislative Cover Memo

Introduction: April 19, 2021
Public Hearing: May 3, 2021
Effective Date: June 2, 2021

Agenda Item: **Ordinance 2021-05**
REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER
1111.05 TITLED “STORMWATER AND DRAINAGE
REQUIREMENTS AND STANDARDS” OF THE CODIFIED
ORDINANCES OF THE CITY OF FRANKLIN, OHIO

Submitted by: Barry Conway, City Engineer

Scope/Description: These proposed changes were requested by the Warren County Soil and Water Conservation District and the Warren County Engineer - as directed by Ohio Environmental Protection Agency (OEPA). In 2019 the City of Franklin entered into an agreement with the Warren County Soil and Water Conservation District to administer the requirements of the Clean Water Act and more specifically the requirements the City adheres to as a MS4 (Municipal Separate Storm Sewer System). The County Agency has entered into agreements with most entities in the County to provide this service and at a substantial savings to the entities. As part of this service the District is trying to make ordinances and regulations more consistent across the County, and at the direction of Ohio EPA changes to these ordinances are required for proper compliance with the City’s MS4 permit. Since this part of the Unified Development Ordinances, it was taken to Planning Commission on April 12, 2021. The Planning Commission voted unanimously (6-0) to recommend to City Council to approve the changes.

Vote Required for Passage: Per Section 4.03 of the City Charter, the approval of a majority of the members of Council present is required for passage.

Exhibits: Exhibits A and B.

Recommendation: Approval.

CITY OF FRANKLIN, OHIO
ORDINANCE 2021-05

REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 1111.05 TITLED “STORMWATER AND DRAINAGE REQUIREMENTS AND STANDARDS” OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO

WHEREAS, the City of Franklin must comply with the Clean Water Act and directives of the Ohio Environmental Protection Agency;

WHEREAS, as a result, the City’s regulations regarding Stormwater must be updated to remain in compliance with updates to the Clean Water Act;

WHEREAS, the City of Franklin has engaged since 2019 Warren County Soil and Water Conservation District to administer the requirements of the Clean Water Act and, more specifically, the requirements the City adheres to as a Municipal Separate Storm Sewer System;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Franklin, Ohio, a majority of the members elected thereto concurring, that:

Section 1. Existing Chapter 1111.05, of the Codified Ordinances of the City of Franklin, Ohio, attached hereto as Exhibit A, is repealed in its entirety.

Section 2. The attached Exhibit B, Chapter 1111.05, titled “Stormwater and Drainage Requirements and Standards,” replaces the repealed Chapter 1111.05 and is enacted into law. Said Chapter shall be added to the Codified Ordinances of the City of Franklin under Part Eleven – Unified Development Ordinance, Chapter 1111 Development Requirements and Standards.

Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 4. This Ordinance shall become effective on June 2, 2021.

INTRODUCED: April 19, 2021

ADOPTED: May 3, 2021

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2021-05 passed by that body on May 3, 2021.

Khristi Dunn, Clerk of Council

Approved as to form: _____
Lynnette Dinkler, Law Director

EXHIBIT A

1111.05 Stormwater and Drainage Requirements and Standards

- (a) Intent: The intent of this Section is to protect the land and water resources of City of Franklin by establishing standards to achieve a level of soil erosion and stormwater control that will minimize and abate degradation of land and water resources and damage to public and private property resulting from earth disturbing activities. In addition, these regulations further intend to:
- (1) Assure that those involved in earth disturbing activities minimize both soil erosion and the volume and rate of stormwater runoff from their sites.
 - (2) Preserve to the extent practicable the natural drainage characteristics of the site and minimize the need to construct, repair, and replace enclosed, subsurface storm drain systems.
 - (3) Assure that stormwater controls are incorporated into site planning and design at the earliest possible stage and that all stormwater management practices are properly designed, constructed, and maintained.
 - (4) Prevent unnecessary stripping of vegetation and loss of soil and to promptly re-vegetate and stabilize the site following earth disturbing activities.
 - (5) Reduce the need for costly maintenance and repairs to roads, embankments, ditches, water resources, wetlands, and stormwater management practices.
 - (6) Encourage the construction of stormwater management practices that serve multiple purposes such as flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
 - (7) Preserve to the maximum extent practicable natural infiltration and groundwater recharge.
- (b) Scope: Any person or persons proposing to develop or redevelop land within the City of Franklin for any of the uses listed below shall design, develop, and submit a Site Development Plan as described in Section 1111.05(i). This plan will be evaluated to determine the potential for erosion, runoff, and sedimentation impacts that may result from such development activities and the need for submission of a Stormwater Management Plan (SMP) described in Section 1111.05(j), to minimize these impacts.
- (1) This section shall apply to both the development and redevelopment of land proposed for the following:
 - A. Residential, institutional, commercial, office, and industrial purposes, including subdivision and land development proposals for non-agricultural uses in rural areas.
 - B. Recreational facilities, non-agricultural water impoundments and waterway construction or improvement.
 - C. Public infrastructure uses, including transportation and utilities.
 - D. Any earth disturbing activity within critical and sensitive natural areas, including floodplains, highly erodible lands (HEL) and wetlands.
 - (2) This section does not apply to earth disturbing activities associated with agricultural activities. No earth disturbing activity subject to regulation under this section shall be undertaken for any land proposed for development or redevelopment for uses specified above without an approved Site Development Plan as required under Section 1111.05(i), and, if appropriate, a Stormwater Management Plan (SMP) as required under Section 1111.05(j). Final approval of a proposed development or redevelopment shall not be given unless:
 - A. A determination is made by the City Engineer or his authorized agent(s) based on submission of a Site Development Plan that the proposed earth disturbing activity will not cause accelerated runoff, erosion, and/or sediment impacts harmful to the quality of off site lands and waters, and
 - B. A SMP has been approved by the City Engineer after determining that the proposed earth disturbing activity will not cause accelerated runoff, erosion, and/or sediment impacts harmful to the quality of off site lands and waters.
 - (3) Any person or persons seeking approval for an earth disturbing activity listed below shall prepare a SMP as described in Section 1111.05(j):
 - A. Activities disturbing greater than or equal to one (1) acre, or less than one (1) acre, if part of a larger common plan of development or sale.
 - B. Activities that require the extension of public utilities (roadways, water mains, sanitary sewer mains, storm sewers, etc.).

~~C. Activities that will modify an existing and/or approved drainage way, drainage structure,~~

- ~~_____ and/or drainage easement.~~
- ~~D. _____ Activities that will channel, straighten, and/or modify a watercourse within the identified 100-year floodplain (studied and unstudied).~~
- (4) ~~Any person or persons seeking approval to construct a structure shall be exempted from having to prepare a Site Development Plan and a SMP provided they submit a written request for exemption to the City Engineer and said request meets all of the following:~~
 - ~~A. _____ Construction takes place on one parcel.~~
 - ~~B. _____ The earth disturbing activity does not affect more than ten thousand square feet (10,000 sq. ft.) of the development site at one time.~~
 - ~~C. _____ Is not located within one hundred feet (100') of a sensitive natural area.~~
 - ~~D. _____ Earth disturbing activities will not modify the general existing site drainage pattern(s), drainage structure, drainage tiles, drainage easements, etc.~~
 - ~~E. _____ One or both of the following:~~
 - ~~(i) _____ Specifications are obtained and followed for controlling potential off site stormwater and erosion impacts from small lot building sites set forth by the City and/or its authorized agent(s).~~
 - ~~(ii) _____ The parcel is part of an overall development plan which has received approval of a SMP and the builder certifies that they will comply with said Plan.~~
 - ~~F. _____ The request for an exemption shall be in writing and shall include sufficient detail to determine that granting an exemption will not be detrimental to abutting properties or to the drainage system.~~
 - ~~G. _____ Exemption under this Section does not exempt any person or persons from other provisions of this Section or liability from their activities.~~
- (e) ~~Performance Standards:~~
 - (1) ~~**All Erosion and Sediment Kept on Site:** Erosion and sedimentation caused by accelerated wind or stormwater runoff over the site due to earth disturbing activities shall be stabilized and confined to within the boundaries of the development site.~~
 - (2) ~~**Discharge of Untreated Stormwater:** To the maximum extent practicable the site shall not discharge untreated stormwater directly into a receiving body of water.~~
 - (3) ~~**Structural and Nonstructural Best Management Practices:**~~
 - ~~A. _____ Nonstructural stormwater management practices shall be used to the maximum extent practicable. Such practices may include, but not be limited to, preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction, and designation of tree preservation areas.~~
 - ~~B. _____ Nonstructural and structural stormwater management practices shall be designed in accordance with requirements and standards specified in this section and/or by the authorized agent(s).~~
 - ~~C. _____ Structural and nonstructural stormwater management practices shall be placed in easements, if necessary, and recorded on the property deeds on which they are located and shall remain unaltered unless first approved by the City Engineer.~~
 - ~~D. _____ Post construction BMPs, based on the Ohio EPA's *Construction Stormwater General Permit* and the Ohio DNR's *Rainwater and Land Development Manual* are to be provided when applicable.~~
 - (4) ~~**Stream and Wetland Riparian Buffers:** The site owner and/or applicant shall leave an undisturbed riparian buffer on both sides of and/or surrounding water resources, except for crossings and other riparian area and wetland impacts approved by the City Engineer or other authorized agent. Buffer width will be determined on a case by case basis using criteria such as floodplain, topography, vegetative cover, canopy cover, and soil types, etc.~~
 - (5) ~~**Channel Protection:** To protect stream channels from degradation a specific channel protection criteria shall be provided as prescribed in the latest edition of the Ohio DNR's *Rainwater and Land Development Manual*.~~

- (6) **Temporary Stabilization of Disturbed Areas and Soil Stockpiles:** A temporary vegetative cover shall be established on disturbed areas as specified in **Table 1**, below.
- A. Application practices include vegetative establishment, mulching, and the early application of gravel base on areas to be paved. Soil stabilization measures should be appropriate for the time of year, site conditions and estimated time of use.
 - B. Topsoil removed shall be stored on site and shall be stabilized with quick growing plants or other means, so that it is protected from wind and water erosion. Topsoil shall be maintained in a usable condition for sustaining vegetation and reused on the site.
- (7) **Permanent Stabilization:** A permanent vegetative cover shall be established on disturbed areas as specified in **Table 2**, below. Permanent vegetation shall not be considered established until a ground cover is achieved which is mature enough to control soil erosion and will survive severe weather conditions.
- (8) **Cut and Fill Slopes:** Cut and fill slopes shall be designed, constructed and stabilized in a manner which will minimize erosion. Consideration should be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. If after final grading excessive erosion takes place, additional slope stabilizing measures by the owner, developer or builder will be required until the problem is corrected. The following guidelines are provided to aid in developing an adequate design.
- A. Roughened soil surfaces are generally preferred to smooth surfaces on slopes.
 - B. Diversions should be constructed at the top of long steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.
 - C. Concentrated stormwater should not be allowed to flow down cut or fill slopes unless contained within an adequate channel, flume or slope drain structure, with materials resistant to erosion.
 - D. Wherever a slope face crosses a water seepage plane which endangers the stability of the slope, adequate drainage or other protection should be provided.
- (9) **Protection of Adjacent Properties/Public Rights of Way:** Properties, public rights of way, and thoroughfares adjacent to the site of an earth disturbing activity shall be protected from sediment deposition. This may be accomplished by preserving a well vegetated buffer at the perimeter of the site, by installing perimeter controls such as sediment barriers, filters, dikes, sediment basins, or by a combination of such measures.
- (10) **Sediment Control Structures:** Sediment control structures shall be used to control erosion and trap sediment on a site. Such structures may include, but are not limited to, silt fences, storm drain inlet protection, sediment basins and diversions or channels which direct runoff to a sediment basin. All sediment control practices must be capable of ponding and/or filtering runoff in order to be considered functional. Sediment control structures shall be constructed as a first step in grading and be made functional before upslope earth disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched as soon as the installation is complete. Sediment control structures shall be functional throughout the course of earth disturbing activity and until the site is stabilized with permanent vegetation. Sheet flow runoff from the site shall be intercepted by silt fence or diversions. Silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage areas to silt fence for a particular slope range is shown in **Table 3**, below. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive storm water runoff from areas up to ten (10) acres. Whenever stormwater detention is required the stormwater runoff from the site shall pass through a sediment basin or other suitable sediment trapping facility before discharge to a receiving water body. The authorized agent(s) may require sediment basins or traps for smaller disturbed areas where deemed necessary.
- (11) **Stabilization of Waterways and Outlets:** All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow without erosion. Methods adequate to prevent erosion shall also be provided at the outlets of all pipes and paved channels.
- (12) **Storm Sewer Inlet Protection:** All storm sewer inlets shall be protected so that sediment laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

- (13) **Working in or Crossing Watercourses:** All activities shall be kept out of watercourses to the extent possible. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) shall be restored to its original cross-section and all disturbed area stabilized immediately after in-channel work is completed. Where a watercourse will be crossed regularly during construction, a temporary stream crossing shall be provided, used for the shortest period practical, removed following site construction, and restored as described in this section.
- (14) **Maintenance and Removal of Temporary Measures:** All temporary erosion and sediment control practices shall be maintained and repaired to assure continued performance. All temporary erosion and sediment control measures shall be removed within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall have the final grade re-established and be permanently stabilized to prevent further erosion and sedimentation.
- (15) **Control of Construction Site Debris and Wastes:** All owners, applicants, contractors and developers shall control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste on construction sites and shall keep streets and gutters clear of all sediment and debris from the site.
- (16) **Use, Safety, and Maintenance of Stormwater Practices:** Stormwater management practices shall be designed for the ultimate use of the site and function safely and with minimal maintenance. If an inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.
- (17) **Inspection of Stormwater Controls:** All on-site control practices shall be periodically inspected to ensure proper function and to identify failures. On- and off-site discharge locations shall be inspected to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters. Detailed records of inspections shall be maintained for three (3) years following the final stabilization of the site.
- (18) **Accessibility and Easements:** All permanent stormwater management measures shall have easements sufficient to cover the facility, if necessary, and to provide access for inspection and maintenance.
- (19) **Status of Standards:** The standards identified in this Section are general guidelines. Each application shall be reviewed on a case by case basis and some may require additional and more stringent requirements, while others may have individual requirements waived or not waived by the City Engineer or other authorized agent.

TABLE 1: Temporary Stabilization

Area Requiring Temporary Stabilization	Time Frame to Apply Erosion Controls
Any disturbed area not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 21 days but less than one year.	Within 7 days of the most recent disturbance within the area.
Disturbed areas that will be idle over winter.	Prior to onset of winter weather.

TABLE 2: Permanent Stabilization

Area Requiring Permanent Stabilization	Time Frame to Apply Erosion Controls
Any area that will lie dormant for 6 months or more.	Within 7 days of the most recent disturbance.
Any area at final grade.	Immediately after reaching final grade within that area.

TABLE 3: Maximum Drainage Area to Silt Fence

Maximum Drainage Area (In Acres) To 100 Linear Feet of Silt Fence	Range of Slope for a Particular Drainage Area (Percent)
0.5	<2%
0.25	≥ 2% but < 20%
0.125	≥ 20% but < 50%

(d) Construction Standards:(1) Storm Sewers:

- A. Size of Sewer. The size of the sewer shall be determined on the basis of the hydraulic gradient to provide adequate capacity for the computed run off, using $n = 0.015$ for vitrified, concrete pipe, bituminous paved corrugated metal, and brick sewers; and $n = 0.013$ for monolithic concrete sewers. In no case shall the size be less than twelve inches (12") in diameter.
- B. Depth. Minimum depth for storm sewers shall be planned to provide clearance for all utilities and to permit inlet leads to be laid on not less than two percent (2%) slope, with the invert of the inlet pipe at the manhole, no lower than the top of the bench wall.
- C. Minimum and Maximum Velocities. Velocities in storm sewer pipe, when flowing full at average peak flows, shall not be less than two and one half feet (2.5') per second nor more than twelve feet (12') per second. For velocities greater than twelve feet (12') per second, special provisions shall be made to protect the sewer pipe against erosion and against displacement by shock or for checking the flow velocity.
- D. Pipe Gradients. The sewer pipe shall be laid on such gradients so that the flow full velocities shall be kept within the foregoing stated minimum and maximum. The pipe sizes should be so selected as to avoid large differences in velocities between consecutive reaches.

(2) Manholes: Manholes shall be placed at:

- A. All sewer intersections and termini;
- B. All changes in sewer size, alignment and slope;
- C. All points where inlets are to be connected; and
- D. At intermediate intervals, as required for maintenance, but not to exceed four hundred feet (400').

(3) Catch Basins/Inlets:

- A. Capacity. The capacity of the inlet should not be less than the quantity of flow tributary to the inlet. Inlets at low points or grade pockets should have extra capacity as a safeguard for flooding from flows in excess of design flows. Special inlets may be required for streets with steep gradients to provide the extra capacity such situations require.
- B. Depth. The desirable minimum depth of a terminal inlet shall be three feet (3') from the inlet top to the invert of the outlet pipe. Any inlets having a depth in excess of five feet (5') shall be provided with manhole type steps. Wing wall and ditch type inlets shall be used where required to drain storm water from watercourses and drainage channels.

C. ~~Location.~~ The inlets shall be so located that they pick up no more than 5.0 cfs, and this only when street grades do not exceed six percent (6%) on either side of the inlet, and when the maximum concentration of water on each side of the inlet does not exceed 2.5 cfs. Inlets shall be located upstream of all sidewalks at street intersections, crosswalks, driveways and roadways, in all pockets in streets, where a street grade flattens, and at intervals not greater than two hundred fifty feet (250') in gutters.

(4) ~~House and Building Downspouts and Sump Lines:~~ When a collector line, catch basin, or inlet is available at the front or rear of the property, the downspouts and sump line shall connect directly to the collector line, catch basin or inlet. When a collector line, catch basin, or inlet is not available, the downspouts and sump line shall discharge to the front or rear of the lot in such a manner that the terminus of the downspout or sump line is setback a minimum of fifteen feet (15') from the property line.

(5) ~~Outfalls:~~

A. ~~When a storm sewer system outfalls into a floodplain of any major watercourse, the outfall must not be subject to frequent floods or backwaters. Standard wing walls with erosion control shall be constructed for all outfalls. Suitable baffles or other energy dissipaters shall be provided if determined to be necessary by the City Engineer.~~

B. ~~The invert of the first storm sewer appurtenance upstream of an outfall structure shall be above the twenty five (25) year flood elevation.~~

(6) ~~Specifications for Construction and Materials:~~ In all other respects, the materials and construction shall be as specified in Sections 603, 604, 706 and 707 of the State of Ohio Department of Transportation's *Construction and Material Specifications*.

(e) ~~Stormwater Drainage Channel and Watercourse Standards:~~

(1) ~~Stormwater Courses:~~

A. ~~The Stormwater drainage system shall be adequate to handle run-off from the completely developed site as shown on the submitted plans for storms of the return frequencies cited below:~~

(i) ~~For all residential, commercial and industrial areas with drainage areas less than one (1) square mile—ten (10) year frequency.~~

(ii) ~~For concentrated high value districts and for all areas providing drainage flows in excess of the capacity of an eighty four inch (84") diameter pipe—twenty (25) year frequency.~~

(iii) ~~For main flood control channels—fifty (50) year frequency.~~

~~The run-off computed from these storms shall be that from the development area and from all other tributary areas considered as fully developed in accordance with the Floodplain Overlay District and Zoning Map.~~

B. ~~To further protect buildings against flood damage, the lowest floor or opening elevation, whichever is lowest, shall be in accordance with the requirements of the flood damage prevention ordinance relative to the one hundred (100) year flood level.~~

(2) ~~Drainage Channel Capacities:~~

A. ~~Drainage channels shall be designed to carry the peak flows, as determined by the criteria in subsection (1), above, and using the "rational method," outlined in subsection (n). Channel cross section areas shall be determined by Mannings Formula, using the "n" valued listed in Table 4, below (taken from the latest edition of ODOT's *Location and Design Manual*).~~

B. ~~When open drainage channel will require pavement lining to attain their ultimate design capacity, the earth sections of the drainage channel and its structure shall be designed and constructed to the ultimate design required. Lining shall not be required in the initial construction. All lining improvements shall be completed before the development proceeds to two thirds (2/3) completion.~~

(3) ~~Swales:~~

A. ~~Turfed or paved swales shall be permitted on development areas of one half (1/2) acre or larger. They may be located at the rear of lots or along common property lines. The swale flow shall discharge into an open drainage channel or into an inlet manhole. Inlet manholes shall be provided with a paved apron and transition section to funnel the swale flow into the inlet. When the length of a swale in the rear of the lots exceeds the width of three (3) lots, an~~

inlet and storm sewer are to be provided to collect the flow, and for every third lot as necessary for the overall length of the swale.

- B. If an owner desires to eliminate a swale through his property, he shall first secure approval from the City Engineer along with a work permit for the installation of a yard drain of adequate capacity, with a sewer connection to a storm water sewer or drainage channel.
- (4) **Headwalls:** Standard headwalls and/or wing walls shall be constructed for all culvert inlets and outlets in swales and at the outfall of all storm sewers.

TABLE 4: Channel Cross Section Areas

Type of Lining	Roughness Coefficient
BARE EARTH	0.02
SEEDED	0.03
SOD	0.04
JUTE MATERIAL	0.04
EXCELSIOR MATERIAL	0.04
CONCRETE	0.15
BITUMINOUS	0.18
GROUND RIP RAP	0.02
ROCK CHANNEL PROTECTION	0.06

(f) **Retention Basins Standards and Specifications:**

- (1) **Definition and Scope:** These standards apply to permanent and temporary storm water run-off, sediment and debris basins formed by an embankment, an excavation or a combination of both. These standards are limited to the installation of basins on sites where:

- A. Failure of the structure will not result in the loss of life, damage to homes, or interruption of use and/or service of public utilities (Soil Conservation Service Hazard, Class A);
- B. Drainage area does not exceed two hundred (200) acres;
- C. The water surface at the crest of the emergency spillway does not exceed five (5) acres.

(2) **Classes of Basins Table 5:**

- A. Height shall be measured from the low point of the original ground along the centerline of dam to the top of dam for Class A, and to the crest of emergency spillway for Classes B and C.
- B. Class A basins are to be used only where site conditions are such that it is impractical to construct an emergency spillway in undisturbed ground, and shall only be used as temporary structures.

- (3) **Basin Depth:** Wet type basins shall have a normal depth of at least eight feet (8') to prevent stagnation.

(4) **Run-Off and Sediment Capacity:**

- A. The capacity of the run-off retention and sediment basin to the elevation of the pipe spillway crest shall be equal to the necessary volume to temporarily retain excessive storm water run-off and to permit a controlled rate of discharge as calculated by the methods in subsection (n), plus the volume of expected sediment yield from unprotected portions of the drainage

area for a period of two (2) years. **Table 6**, below, shows the average annual sediment volumes that can be expected from unprotected disturbed areas.

- B. — Where unanticipated storm events or other conditions produce a sediment yield which reduces the basin's capacity to sixty percent (60%) or less of the designed capacity, the basin shall be cleaned out to its original capacity.

(5) — Pipe Spillways:

- A. — *Spillway*. The pipe spillway will consist of a vertical pipe or box type riser joined to a conduit which will extend through the embankment and outlet beyond the downstream toe of the embankment. The minimum diameter of the conduit shall be eight (8) inches.
- B. — *Wet Basins*. The discharge conduit of wet type basins shall be equipped with a means of obtaining complete drawdown of the basin.
- C. — *Dry Type Basins*. In dry type basins with a maximum water depth of four feet (4') or less, the discharge conduit may be connected to an outlet structure other than a riser pipe, such as a modified catch basin, upon approval by the City Engineer.
- D. — *Crest Elevation*. When used in combination with emergency spillways, the crest elevation of the riser shall be the head required to prime the pipe conduit, or one foot (1') below the control section of the emergency spillway, whichever is the least elevation. If no emergency spillway is provided, the crest elevation shall be at least three feet (3') below the settled elevation of the top of the embankment.
- E. — *Perforated Riser*. Metal pipe risers shall be perforated with one and one half inch (1.5") diameter holes spaced vertically and horizontally around the pipe. The perforated portion of the riser shall extend down to the planned drawdown elevation and least one half (1/2) the height of the riser. Box type risers shall be ported or have some means for complete drainage down to the planned drawdown elevation within five (5) days.
- F. — *Anti Vortex Device*. An anti vortex device shall be installed at, and firmly attached to, the top of the riser. The anti vortex device should be a vertical steel plate installed parallel with the pipe barrel. The minimum horizontal dimension shall be the diameter of the riser plus twelve inches (12"), and the minimum vertical dimension shall be equal to the diameter of the pipe barrel.
- G. — *Base*. As a means of absorbing the energy of the falling water and of providing sufficient weight to prevent flotation of the riser, the riser shall be attached to a concrete base using a watertight connection.
- H. — *Trash Rack*. An approved trash rack shall be firmly attached to the top of the riser if the pipe spillway conveys twenty five percent (25%) or more of the peak rate of run off from the design storm.
- I. — *Anti Seep Collars*. Anti seep collars shall be installed around the pipe barrel for all installation where the height of the earth fill over the top of the pipe exceeds five feet (5'). The anti seep collars and their connections to the pipe barrel shall be watertight. The maximum space between collars shall be fourteen (14) times the minimum projection of the collar measured perpendicular to the pipe. Collars shall normally extend two feet (2') outside the pipe, except for eight inch (8") pipe collars, which may be only four feet (4') square. The first collar should be located ten to twelve feet (10' - 12') downstream from the riser.
- J. — *Outlet Protection*. The pipe barrel shall outlet approximately at natural ground elevation beyond the downstream toe of the embankment, and protection against scour shall be provided. Protective measures may include rock rip rap, paving, plunge pool, or the use of any other approved methods. Where a plunge pool is used, the pipe barrel must extend eight feet (8') downstream from the toe of the embankment.

(6) — Emergency Spillways:

- A. — Emergency spillways shall be constructed for all Class B and Class C sediment basins (see Table 5). The emergency spillway cross section will be trapezoidal with a minimum bottom width of four feet (4'). The steepest side slopes shall be 3:1.
- B. — For Class A sediment basins (see Table 5), the embankment will be used as an emergency spillway. The downstream slope of the embankment shall be at a ratio of five to one (5:1) or flatter, and the embankment must be immediately protected against erosion by sodding, rock rip rap, asphalt coating, or other approved methods.

- C. ~~*Capacity*~~: The maximum capacity of the emergency spillway shall be that required to accommodate the peak rate of flow into the retention basin, as calculated in subsection (n), "Storage Requirements," minus the allowable capacity of the pipe spillway, as computed in subsection (n), "Discharge from Retention Basin."
- D. ~~*Velocities*~~: The maximum allowable velocity of the flow in the discharge channel shall comply with the maximum velocities outlined in subsection (e)(2) (See Table 4).
- E. ~~*Freeboard*~~: Freeboard is the difference between the design flow elevation of the emergency spillway and the top of the settled embankment. The minimum freeboard for all Class B and Class C basins (see Table 5) with less than one hundred (100) acre drainage areas shall be one foot (1') above the water surface in the reservoir with the emergency spillway flowing at design depth, or three feet (3') above the emergency spillway crest elevation, whichever is greater. In addition, a minimum fifteen foot (15') allowance for settlement will be added to the settled embankment elevation.
- (7) **Slope Requirements:**
- A. Embankments (Earth fill):
- (i) For Class A basins (see Table 5), the minimum top width shall be four feet (4'); the upstream slope shall be no steeper than a ratio of three to one (3:1); and the downstream slope shall be no steeper than five to one (5:1).
- (ii) For Class B and Class C basins (see Table 5), the minimum top width shall be six feet (6'), and the side slopes shall be no steeper than a ratio of four to one (4:1).
- B. Excavations: The inside slope of all excavation basins shall be no greater than a ration of (4:1), with a minimum top width of four feet (4').
- (8) **Basin Bottoms:** The bottom of all retention basins shall be provided with a four foot (4') wide, paved channel from the basin inlet to the basin outlet.
- (9) **Erosion and Pollution Control:** Construction shall take place in such a manner to minimize soil erosion and water pollution, and appropriate measures shall be taken to protect the embankment, emergency spillway and other disturbed areas.
- (10) **Safety:** Fencing necessary to restrict accessibility for reasons of safety shall be installed. Warning signs of danger shall be installed as necessary.
- (11) **Use of Parking Lots for Retention.** The use of automobile parking lots for the retention of storm water is prohibited. Truck parking lots in industrial areas may be used for storm water retention, provided the maximum water depth is nine inches (9") or less.

TABLE 5: Basin Classes

Class	Max. Drainage Area (Acres)	Max Height of Embankment	Emergency Spillway Required	Type
A	20	5	No	Temporary
B	20	10	Yes	Permanent
C	200	20	Yes	Permanent

TABLE 6: Average Annual Sediment Volumes

Disturbed Area (Acres)	Annual Sediment Volume (Ac. Ft.)	Disturbed Area (Acres)	Annual Sediment Volume (Ac. Ft.)
1	1.0	40	2.5
2	1.1	60	2.8
4	1.3	80	3.1
6	1.5	100	3.3
8	1.6	125	3.5
10	1.7	150	3.7
20	2.1	175	3.9
30	2.3	200	4.0

(g) ~~Cuts, Fills and Hillside Development:~~

- (1) ~~Hazardous Conditions:~~** Whenever the City Engineer or other approving agent determines that any excavation, embankment, slope or other condition on a development site has become a hazard to life, endangers property or adversely affects the safety, use or stability of a public way or drainage channel, the owner or person in control of the property upon which such a condition exists, upon receipt of written notice shall, within the period specified, correct the condition so as to eliminate the hazard and be in conformance with the requirements of this Section.
- (2) ~~Hillside:~~** A hillside, as referred to herein, is defined as an area with an average slope equal to or greater than fifteen percent (15%). Only those areas meeting this definition shall be subject to the standards and criteria set forth herein as pertaining specifically to hillside or hillside areas.
- (3) ~~Determination of Average Slope:~~** The average slope of an area shall be measured over a horizontal distance of not less than one hundred feet (100') nor more than two hundred feet (200'); disregarding minor variations. All significant changes in grade shall be considered in determining such measurements.
- (4) ~~Cuts:~~** Unless otherwise recommended in the approved soil engineering and/or geology report, the slope of cut surfaces shall be no steeper than two (2) horizontal to one (1) vertical (2:1).
- (5) ~~Fills:~~**
 - A. ~~Unless otherwise recommended in the approved soil engineering report, fills shall conform to the provisions of this section. In the absence of an approved soil engineering report, these provisions may be waived by the City Engineer for minor fills not intended to support structures.~~**
 - B. ~~Slope.~~** The slope of fill surfaces shall be not steeper than three (3) horizontal to one (1) vertical (3:1).
 - C. ~~Fill Location.~~** Fill slopes shall not be constructed on natural slopes steeper than two (2) horizontal to one (1) vertical (2:1).
 - D. ~~Preparation of Ground.~~**
 - (i) ~~The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable material, and by scarifying to provide a bond with new fill. Fill shall not be placed upon frozen material. Where receiving slopes are steeper than five feet to one foot (5':1') and the fill height is greater than five feet (5'), the fill shall be benched into sound bedrock or other competent material, as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five feet to one foot (5':1') shall be at least ten feet (10') wide.~~**

- (ii) — Where fill is to be placed over a cut, the bench under the toe of the fill shall be at least ten feet (10') wide, but the cut must be made before placing fill and must be approved by the soils engineer and engineering geologist as a suitable foundation for fill.

(ii) Unsuitable soil is soil which, in the opinion of the City Engineer, other approving agent, soil engineer or geologist is not competent to support other soil or fill, or is not competent to support structures, or is not competent to satisfactorily perform the other functions for which the soil is intended.

E. — *Fill Material.* Detrimental amounts of organic material shall not be permitted in fills. No frozen material shall be placed in fills. No rock or small irreducible material with a maximum dimension greater than twelve inches (12") shall be buried or placed in fills except as permitted by the City Engineer or other approving agent, and subject to the following conditions:

- (i) — The soils engineer properly devises a method of rock placement, continually inspects its placement, and approves the fill stability;
- (ii) — Potential rock disposal areas are delineated on the grading plan;
- (iii) — Rock sizes greater than twelve inches (12") in maximum dimension shall be ten or more feet (10') below grade, measured vertically; and
- (iv) — Rocks shall be placed so as to assure filling of all voids with fines.

F. — *Compaction.* All fills shall be compacted to a minimum of ninety percent (90%) of maximum density.

(6) — Setbacks:

A. — The setbacks and other restrictions specified in this section are minimum and may be increased by the City Engineer or other approving agent, or by the recommendation of a civil engineer, soils engineer or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion, or to provide access for slope maintenance and drainage.

B. — *Setbacks from Property Lines.* The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope right areas and easements, in accordance with **Figure No. 1** and **Table 7**.

(7) — Drainage and Terracing: Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this section.

A. — *Terraces.*

- (i) — Terraces at least six feet (6') in width shall be established at not more than thirty foot (30') vertical intervals on all cut and fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at mid height. For cut or fill slopes greater than sixty feet (60') and up to one hundred twenty feet (120') in vertical height, one terrace at approximately mid height shall be twelve feet (12') in width. Terrace widths and spacing for cut and fill slopes greater than one hundred twenty feet (120') in height shall be designed by a civil engineer and approved by the City Engineer or other approving agent. Suitable access shall be provided to permit proper cleaning and maintenance.
- (ii) — Swales or ditches on terraces shall have a minimum gradient of five percent (5%) and must be paved with reinforced concrete not less than three inches (3") in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one foot (1') and a minimum paved width of five feet (5').
- (iii) — A single run of swale or ditch shall not collect run off from a tributary area exceeding thirteen thousand five hundred square feet (13,500 sq. ft.), projected, without discharging into a down drain.

B. — *Subsurface Drainage.* Cut and fill slopes shall be provided with subsurface drainage as necessary to alleviate wetness problems and ensure slope stability.

C. — *Interceptor Drains.* Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area slopes towards the top of the cut and has a drainage path greater than forty feet (40') measured horizontally. Interceptor drains shall be paved with a minimum of three inches (3") of concrete or gunite and reinforced. They shall have a minimum depth of twelve inches (12") and a minimum paved width of thirty inches (30")

measured horizontally across the drain. The slope of the drain shall be approved by the City Engineer or other approving agent.

- D. *Surface Drainage.* All lots, tracts or parcels shall be graded to provide proper drainage away from building and shall dispose of it without ponding. All land within a development area shall also be graded to drain and dispose of surface water without ponding.
- E. *Disposal.* All water from swales and/or ditches on terraces, from surface and subsurface drainage, and from interceptor drains shall be disposed of in a manner consistent with the requirements of this Section, specifically subsection (c), "Performance Standards."
- (8) **Erosion Control:** The faces of cut and fill slopes and all traded areas shall be prepared and maintained to control erosion in compliance with the requirements of this Section, specifically subsection (c), "Performance Standards."
- (9) **Retaining Walls:** Subject to the approval of the City Engineer or other approving agent, retaining walls may be used whenever topographic conditions warrant; or where necessary to retain fill or cut slopes within the right of way and/or property lines; or to reduce the required setbacks.
- (10) **Relocation and Protection Sewers:**
 - A. If, in the opinion of the City Engineer or other approving agent, it is necessary to relocate or modify the existing sewer system serving the area affected by an excavation or fill operation for the purpose of providing drainage of the affected area, or protecting the existing sewer system from damage, the developer or property owner shall obtain a permit to relocate or modify the existing sewer system for the affected area pursuant to the current rules and regulation of the City. Such relocation or modification shall be made at the expense of the developer or property owner. The developer or property owner shall grant such easements as may be necessary prior to receiving final plan approval.
 - B. In places where existing sewerage is adequate, but in the opinion of the City Engineer or other approving agent the excavation or fill operation may potentially damage the sewer system, before receiving final plan approval, the developer or property owner shall provide a bond, of a corporate surety authorized to do business in the State of Ohio, and naming the City as obligee thereof, covering the City Engineer's estimate of replacement costs of the sewer and guaranteeing that the proposed fill will not damage the sewer for a period of one (1) year after the fill is complete.

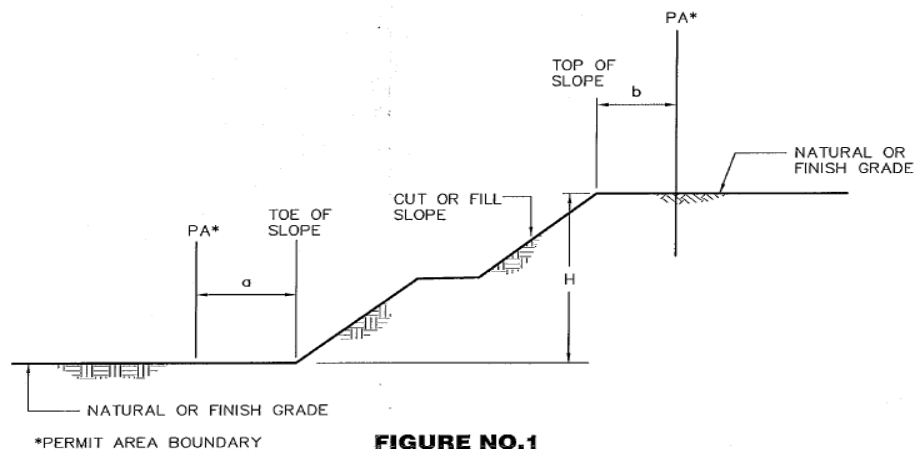


TABLE 7: Required Setbacks from Permit Area Boundary

Height (in feet)	A (in feet)	B (in feet)
Under 5	0	1
5-30	H/2	H/5
Over 30	15	6

* Additional width may be required for inceptor drain.

~~(h) Hillside Development Areas:~~

~~(1) Lot and Building Requirements:~~

- ~~A. The maximum number of lots into which a parcel of land may be subdivided and/or the maximum number of dwelling units permitted on any lot or parcel of land shall be the sum of the number of lots or dwelling units allowed in each category of land, as shown on Table 8, below.~~
- ~~B. For residential lots, there shall be a front yard having a depth of not less than twenty five feet (25'), and a rear yard having a depth of not less than forty feet (40'), measured from the exterior boundaries of the site. For buildings exceeding fifteen feet (15') in height, there shall be a distance from front and rear boundaries equal to the required yard plus one additional foot (1') for each foot of building height it excess of fifteen feet (15').~~
- ~~C. For residential lots, there shall be two (2) side yards, with a minimum depth of ten feet (10') on one side, with a total depth of twenty five feet (25') for both yards, measured from the exterior boundaries of the site. For buildings exceeding fifteen feet (15') in height, there shall be a distance from the side boundaries equal to the required yards plus one additional foot (1') for each foot of building height in excess of fifteen feet (15').~~
- ~~D. For all lots, the total ground floor area of all buildings in the development shall not occupy more than twenty five percent (25%) of the site.~~
- ~~E. No building shall exceed a height of thirty feet (30') above the natural grade of the land on the downhill side of the structure.~~
- ~~F. All excavated material shall be removed from the site or contained behind retaining walls or otherwise placed in order that the slopes of any fill material will not be visible from any public street.~~

~~(2) Special Design Standards:~~

- ~~A. Street grades shall not exceed fifteen percent (15%).~~
- ~~B. Street grades exceeding twelve percent (12%) shall have a maximum length of six hundred feet (600').~~
- ~~C. Minimum dedicated street right of way shall be sixty feet (60').~~
- ~~D. 'T' or 'Y' type turning and backing cul de sacs may be substituted for circular turnarounds.~~
- ~~E. Panhandle: double frontage and other unorthodox lots shall be permitted.~~
- ~~F. The maximum grade on driveways shall not exceed ten percent (10%). Each drive shall provide sufficient space and distance to turn around prior to entering the street.~~

TABLE 8: Lot and Building Requirements

Cross-Slope of Land	Maximum Number of Units or Lots Per Gross Acre
10% to 14.9%	1.80
15% to 19.0%	1.10
20% to 24.9%	0.70
25% to 29.9%	0.50
30% to 34.9%	0.30
35% and over	0.20

- (i) ~~Site Development Plan:~~ Any person seeking approval of land development proposals for use types listed in Section 1111.05(b) shall develop and submit a Site Development Plan as detailed in this section. The applicant is encouraged to have a pre-submission meeting with the City Engineer or his authorized agent(s). Each applicant shall provide information that details the location of the area proposed for development, the site in relation to its general surroundings, predevelopment site conditions, existing characteristics of the site, and the extent of proposed earth disturbing activities.

(1) Submittal Requirements:

- A. ~~At a minimum, the Site Development Plan shall include the following elements:~~
- (i) ~~General location map prepared from a two thousandth scale (1-inch = 2,000 feet) USGS topographic base map that shows the area proposed for development and pertinent adjacent areas and features;~~
 - (ii) ~~A description of the nature and type of the earth disturbing/construction activity (e.g. residential, commercial, highway, etc.); and~~
 - (iii) ~~A photocopy of the appropriate soil survey sheet found in the USDA Soil Survey of Warren County, Ohio with location of site identified.~~
- B. ~~A Site Plan Map that shows the location of existing features and proposed improvements on the site including:~~
- (i) ~~Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, cleaning, excavation, filling or grading, including off site borrow areas);~~
 - (ii) ~~Surface water locations, including springs, wetlands, streams, lakes, water wells and ponds on or within two hundred feet (200') of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the permittee intends to fill or relocate for which the permittee is seeking approval from the Army Corps of Engineers and/or Ohio EPA;~~
 - (iii) ~~The general directions of surface water flow and one hundred (100)-year floodplain when applicable; and~~
 - (iv) ~~All improvements, including buildings, retaining walls, sidewalks, streets, parking lots, driveways, utilities and stormwater basins, drainage impoundments, channels and outlets, etc.~~
- C. ~~An estimate of the impervious area and percent imperviousness created by the earth disturbing activity.~~
- D. ~~A nonrefundable fee, as outlined in Section 1105.09, to cover the costs of the City reviewing the submittal. If the SMP must be sent out for review by the City, the Subdivider or Developer shall pay the cost thereof, and no final approval of the Site Development Plan shall be issued until said costs are paid in full.~~

- (2) ~~**Submittal Process:** The process for a Site Development Plan submission, review and action is described below. This process should be followed at the onset of the request for a review process.~~
- A. ~~Submission of a Site Development Plan by an applicant seeking approval initiates the review process.~~
 - B. ~~The City Engineer or his authorized agent(s) shall review the Site Development Plan and conduct a site inspection of the proposed site.~~
 - C. ~~Review of the Site Development Plan shall be completed within a reasonable amount of time from the date of submittal, not to exceed sixty (60) days.~~
 - D. ~~Following the Plan's review, the authorized agent(s) shall:~~
 - (i) ~~Approve the Site Development Plan; or~~
 - (ii) ~~Conditionally approve the Site Development Plan pending additional information and/or the incorporation of required changes; or~~
 - (iii) ~~Require the submission of a Stormwater Management Plan (SMP) based on written findings of the City Engineer or his authorized agent(s).~~
- (j) ~~**Stormwater Management Plan:** Stormwater Management Plans (SMPs) are intended to provide information on all soil erosion and runoff control activities and Best Management Practices (BMPs) to be used and incorporated on the site both *during* and *after* site development, per the Ohio EPA's *Construction Stormwater General Permit*. This information includes, but is not limited to, site grading, stormwater management facilities and practices, erosion and runoff control information, maintenance plans, and other measures that focus on managing the effects of earth disturbing activities that occur as a result of site development. Reference to be used for all designs shall be the Ohio DNR's *Rainwater and Land Development Manual*. Each SMP shall provide site designs that meet the Performance Standards presented in section C and provide practical treatment for both water quality and quantity of stormwater from the site as appropriate.~~

Submittal Requirements:

- (1) ~~In general, SMPs need to address:~~
 - A. ~~*Erosion and Sediment Control.* Providing measures to ensure that earth disturbing activities at the site *during* and *after* development will be managed in a manner that will not result in increased erosion and sedimentation from the site resulting in impacts to water quality and that meet the Performance Standards specified in Section 1111.05(e).~~
 - B. ~~*Runoff Control.* Providing measures to ensure that the quantity of surface water runoff from the development site during and after construction will mimic the pre-development conditions and that meet the Performance Standards specified in Section 1111.05(e).~~
- (2) ~~If a SMP is required under Section 1111.05(b) or (i), such Plan shall specifically include all the following:~~
 - A. ~~The minimum elements required in the Site Development Plan described in Section 1111.05(i).~~
 - B. ~~The contents of the *Storm Water Pollution Prevention Plan (SWP3)* required by the Ohio EPA's NPDES Construction Activity Permit, latest edition, and incorporated here by reference. This Plan may be submitted as developed for the Ohio EPA, in conjunction with the other requirements of this section.~~
- (3) ~~A nonrefundable fee, as outlined in Section 1105.09, to cover the costs of the City reviewing the submittal. If the SMP must be sent out for review by the City, the subdivider or developer shall pay the cost thereof, and no final approval of the SMP shall be issued until said costs are paid in full.~~

Stormwater Management Plan Submission, Review and Action:

- (4) ~~The applicant is encouraged to have a pre-submission meeting with the City Engineer or his authorized agent(s). Submission of two (2) sets of the SMP and other supporting data required by this regulation to the City Engineer completes the applicant's responsibilities and initiates the review process.~~
- (5) ~~The SMP shall be reviewed by the City Engineer to:~~
 - A. ~~Verify background information furnished by the applicant and evaluate the proposed development in relation to existing site conditions.~~
 - B. ~~Assess the SMP in relation to the Performance Standards and requirements of this section.~~

- (6) ~~Upon submission of the SMP the City Engineer or his authorized representatives shall review the submission within a reasonable amount of time, not to exceed sixty (60) days, and shall either:~~
 - A. ~~Approve the SMP as submitted by the applicant; or~~
 - B. ~~Conditionally approve the SMP and require the submission of additional and/or revised information by the applicant, in order to fully meet the intent and standards of this section;~~
 - ~~or~~
 - C. ~~Disapprove the SMP.~~
- (7) ~~Revisions to conditionally approved SMPs shall be prepared and submitted by the applicant to the City Engineer for review. Action by the City Engineer either approving or disapproving the SMP may be appealed to the Appeals Board.~~
- (k) ~~Grading Plan:~~ Based on information submitted with the application, site plan, or based on information from field investigation, the City Engineer or other approving agent may require a Grading Plan. The grading plan shall be supported with the following supplemental information:
 - (1) ~~Soil Engineering Report:~~ The Soil Engineering Report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.
 - (2) ~~Engineering Geology Report:~~ The engineering geology report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.
- (l) ~~Cost for Initial Construction Inspections:~~ Before approving a final site plan and the accompanying construction plans for public improvements, the Developer shall enter into an agreement with the City to provide for the inspection of the various public improvements as they are constructed. Inspection fees shall be charged at the rate of two and one half percent (2.5%) of the estimated cost of the improvements. The fees shall be used to defray the cost of plan review, field inspection during the one-year warranty period and any other incidental expenses directly related to the contracted improvement. Any costs incurred in excess of the two and one half percent (2.5%) shall be billed to the Developer. The two and one half percent (2.5%) shall be paid along with the bonds before acceptance by the City for operation and maintenance.
- (m) ~~Supplemental Requirements:~~ Stormwater discharge to critical areas with sensitive resources (i.e. wetlands, steep slopes, scenic river designation, recharge areas, etc.) may be subject to additional criteria, or may need to utilize or restrict certain stormwater practices.
- (n) ~~Determination of Post Development Runoff:~~ Each SMP shall include an evaluation of pre-development conditions together with during, and post-development impacts that quantifies the volume and rate of runoff from the site by subdrainage areas:
 - (1) This evaluation shall be prepared according to methods prescribed in the latest edition of the Ohio DNR's *Rainwater and Land Development* or other appropriate sources. The evaluation shall:
 - A. Show delineation and sequence of subdrainage units which comprise the area proposed for development.
 - B. Indicate the hydraulic length of slope per individual subdrainage unit and the length of the natural or manmade watercourse which accommodates the surface runoff from each subdrainage unit.
 - C. Indicate within the legend the average percent slope, erosion factor (K) and runoff curve number (CN) per individual subdrainage unit for a twenty four (24) hour storm of a one (1) year frequency.
 - D. Include a hydrograph for a twenty four (24) hour storm of the critical frequency to be controlled as determined according to Section 1111.05(e) and all calculations made pertinent to evaluating the effects of the proposed development on the pre-development runoff conditions of the site.

- (2) Calculations for the design of stormwater management facilities shall demonstrate the following for each subdrainage unit:
- Surface Run Off.* To determine the amount of storm water for which drainage capacity must be provided, use the "Rational ($Q=CIA$) Method."
 - Run Off Coefficient.* Compute a weighted value of the run off coefficient for the drainage area, using a value of 0.95 for impervious areas such as roofs and pavements and 0.40 for grass area.
 - Time Concentration (Inlet Time).* Using the "Overland Flow Nomograph" **Table 9**, determine the time in minutes it will take the storm run off from the most remote part of the development area to reach the point of the storm drainage system under consideration. For flow time in sewers, the conduit flow time may be determined assuming average full flow velocity at the existing or proposed sewer slopes.
 - Intensity of Precipitation.* The "Point" values of average precipitation intensity, inches per hour, at Cincinnati is shown in **Table 10**, taken from page 35 of the U.S. Department of Commerce, Weather Bureau, Technical Paper No. 25, *Rainfall Intensity Duration Frequency Curves*. For any given storm duration (concentration time of run off), the curves show the average precipitation intensity of storms having 2, 5, 10, 20, 25 and 100 year frequencies. These values may be used for drainage tributary areas of three hundred (300) acres or less. For acreage above three hundred (300) acres, see **Table 11**.

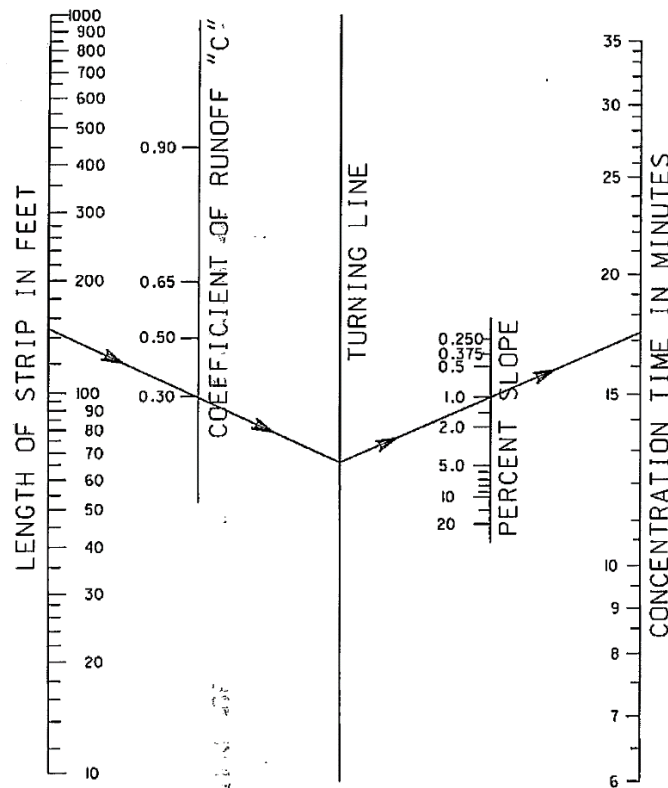
TABLE 9: Overland Flow Chart

TABLE 10: Rainfall Intensity Duration—Frequency Curves

Duration (Minutes)	Storm Frequency					
	2-Year	5-Year	10-Year	25-Year	50-Year	100-Year
5	4.00	5.00	5.70	6.70	7.30	8.20
10	3.45	4.40	5.10	6.10	6.60	7.40
15	2.90	3.70	4.30	5.20	5.60	6.40
20	2.40	3.30	3.70	4.50	4.90	5.50
25	2.20	2.90	3.30	4.00	4.40	4.90
30	1.90	2.60	3.00	3.60	3.80	4.30
40	1.58	2.20	2.45	3.00	3.30	3.70
50	1.37	1.90	2.20	2.50	2.70	3.20
60	1.16	1.60	1.80	2.20	2.30	2.70
90	0.95	1.25	1.45	1.70	1.85	2.10
120	0.73	0.98	1.10	1.30	1.40	1.60
150	0.63	0.85	0.97	1.10	1.20	1.40
180	0.53	0.72	0.84	0.95	1.05	1.15
210	0.48	0.65	0.75	0.86	0.94	1.08
240	0.43	0.58	0.67	0.77	0.84	0.95

TABLE 11: Storm Durations

Duration of Storm in Minutes (te)						
Area in Acres	10	20	30	60	90	120
300	1.00	1.00	1.00	1.00	1.00	1.00
400	0.993	0.993	0.993	0.995	0.996	0.99
500	0.986	0.986	0.987	0.990	0.993	0.99
1,000	0.997	0.997	0.978	0.981	0.985	0.98
1,500	0.986	0.970	0.972	0.974	0.978	0.98
2,000	0.958	0.963	0.966	0.968	0.975	0.98
2,500	0.948	0.953	0.957	0.962	0.970	0.97
3,000	0.938	0.944	0.949	0.957	0.965	0.97
3,500	0.928	0.935	0.941	0.951	0.960	0.96
4,000	0.918	0.927	0.933	0.945	0.956	0.96
4,500	0.908	0.918	0.925	0.939	0.952	0.96
5,000	0.898	0.910	0.918	0.935	0.948	0.95
5,500	0.888	0.901	0.911	0.930	0.945	0.95
6,000	0.880	0.894	0.905	0.927	0.942	0.95

(e) Storm Water Retention:

- (1) **General.** In order to minimize run-off damage to downstream properties, sediment pollution of public and private waters and hydraulic overloading of existing drainage facilities, the storm water run-off from a site after development shall not exceed the discharge from that site prior to development. The amount of water to be retained shall be determined by the method described in the following subsections.
- (2) **Pre-Development Run-Off.** Calculate the exiting site (undeveloped) run-off based on a ten (10) year storm frequency curve and a coefficient of run-off equal to 0.25. The coefficient run-off is based on the assumption of an existing ground condition of an average soli with an average grass cover. The existing ground condition assumption may be waived only if the development site is currently being used for the purpose set forth in a site plan previously approved by the Planning Commission. If the assumption is waived, the run-off coefficient may be based on actual existing ground conditions.
- (3) **Post-Development Run-Off.** Calculate the proposed ultimate development run-off based on a fifty (50) year frequency curve. Use a weighted coefficient of run-off based on the proposed development with $C = 0.95$ for impervious areas and $C = 0.40$ for unpaved and grass areas.
- (4) **Storage Requirement.** Provide on site retention of storm water equal to the post development run-off rate minus the pre development run-off rate for a period of thirty (30) minutes, using an earth embankment or excavation retention basin meeting the standards and specifications outlined in subsection (f) hereof, or any other method of retention acceptable to the City Engineer or other

approving agent.

- (5) ~~**Discharge from Retention Basins.**~~ The discharge from the retention basins shall be equal to the computed pre-development run-off minus any flow discharging directly from the development site.
- (6) ~~**Large Lot Development.**~~ For detention purposes only, residential subdivisions, including existing developments, with a minimum lot size of one (1) acre and a total drainage area of ten (10) acres or more, the most current ISDA Soil Conservation Service's *Urban Hydrology for Small Watersheds*, Technical Release 55 (TR-55) method and formulas may be used. The pre-development run-off shall still be based on the ten (10) year frequency storm and the post-development run-off shall still be based on the fifty (50) year frequency storm. Run-off coefficients shall be determined by using the TR-55 suggest values that apply, subject to the City Engineer's approval. The required detention volume shall be determined through hydrograph development.
- (p) ~~**Off Site Stormwater Control Facilities:**~~ Exceptions to requiring permanent on-site runoff control on the site may be considered by the City Engineer, provided the applicant can prove that:
 - (1) ~~The intent and standards of this section for runoff control can be best achieved by the utilization of off-site stormwater control facilities.~~
 - (2) ~~Runoff from the site can be conveyed to off-site stormwater facilities in a manner and by means which satisfies or surpasses the standards of this section.~~
 - (3) ~~The applicant has ownership of or the right to use the off-site facility in question.~~
- (q) ~~**Compliance Responsibility:**~~ No provision of this section shall limit, increase or otherwise affect the liabilities of the applicant nor impose any liability upon City not otherwise imposed by law. No condition of this permit shall release the applicant from any responsibility or requirements under other federal, state, or local environmental regulations. If requirements vary, the most restrictive requirement shall prevail.
 - (1) ~~**Proceeding with Activity:**~~ Soil-disturbing activities regulated under this regulation shall not begin until all necessary state and federal permits and appropriate approvals of Site Development Plans or Stormwater Management Plans have been granted to the site owner/applicant.
 - (2) ~~**Performance Responsibility:**~~ The applicant is responsible for carrying out all provisions of the approved Site Development Plan or SMP and for meeting all the standards and requirements of this regulation.
 - (3) ~~**Enforcement:**~~
 - A. ~~All development sites are subject to inspections by the City Engineer or his authorized agent(s) to ensure compliance with the approved Site Development Plan or SMP.~~
 - B. ~~After each inspection a status report shall be prepared and distributed to the appropriate person(s).~~
 - C. ~~If it is found that the operations are being conducted in violation of the approved Site Development Plan and SMP, a stop-work order may be issued until the identified violations cease.~~
 - D. ~~Following the issuance of a stop-work order, the City Engineer or his authorized agent(s) shall determine if and when the development may proceed. Any determination by the City Engineer or his authorized agent(s) may be appealed to the Appeals Board.~~
 - E. ~~After the issuance of a stop-work order, but before the imposition of any fines, the applicant shall have the opportunity to request a hearing before Appeals Board to show cause why work should not be stopped. A hearing shall be scheduled at the next meeting of the Appeals Board.~~
 - (4) ~~**Stop Work Orders:**~~ Subsequent to the issuance of a stop-work order, one or more of the following penalties may be imposed.
 - A. ~~If the earth disturbing activity involves a subdivision, the applicable penalties (including fines) outlined in Section 1111.05(q)(10) shall apply.~~
 - B. ~~The City may seek an injunction or other appropriate relief to abate excessive erosion or sedimentation and secure compliance with this section. In granting such relief, the Court may order the construction of sediment control improvements and/or the implementation of other control measures and/or fines as identified in Section 1105.12, or any other relief the court determines.~~

(5) Internal Inspections:

- A. All controls on the site shall be inspected at least once every seven calendar days and within twenty-four (24) hours after any storm event greater than one-half inch of rain per twenty-four (24) hour period. The site owner and/or applicant shall assign qualified inspection personnel experienced in the installation and maintenance of erosion and runoff controls to conduct these inspections to ensure that all stormwater control practices are functional, that all provisions of the SMP and this regulation are being met, and whether additional control measures are required.
- B. The site owner shall maintain for three (3) years following the final stabilization of the site a record summarizing inspections, names(s) and qualifications of personnel making the inspections, the date(s) of inspections, major observations relating to the implementation of the SMP and a certification as to whether the site is in compliance with the SMP and identify any incidents of non-compliance.

(6) Ownership and Maintenance of Stormwater Facilities: In cases where stormwater control facilities are proposed on single private properties, the City Engineer shall approve an inspection and maintenance agreement. This agreement shall bind all current and subsequent owners of land served by the stormwater facilities. In the case of proposed subdivisions, inspection and maintenance agreements shall be approved before the City of Franklin accepts the final plat of the proposed subdivision. This agreement shall bind all current and subsequent owners of land served by the stormwater facilities. All inspection and maintenance agreements shall do the following:

- A. Designate the party or parties responsible for the maintenance of all stormwater management facilities and practices including mowing, landscaping, debris pick-up, and to ensure all inlet and outlet structures are free of obstructions and in good repair.
- B. For subdivisions, unless otherwise approved by the City of Franklin, responsible party(ies) this shall be an entity of common ownership (e.g. Land/Homeowner's Association) within the proposed subdivision. Each parcel sold in the proposed subdivision shall require continued membership in the Land/Homeowners Association.
- C. Prohibit unauthorized alterations of all stormwater management facilities.
- D. Provide adequate access to all stormwater management facilities for inspection by the City and corrective actions by the owner.
- E. All stormwater management facility easements shall be on the final plat, prior to approval by the City, and a reference shall be made to the entity or individual(s) responsible for their maintenance.
- F. The owner/developer shall submit four (4) sets of as-built drawings of all stormwater facilities and improvements, along with a disc of the drawings (CAD or PDF) to the City Engineer.

(7) Drainage Easements: The following conditions shall apply to all drainage easements:

- A. Easements shall be approved by the City prior to approval of the final plat and shall be recorded with said plat.
- B. Unless otherwise required by the City, drainage easements shall be no less than twenty feet (20') wide, plus the width of the stormwater facility(ies).
- C. Unless otherwise required by the City, stormwater management facilities, including basin, ponds or other retention/detention practices, shall be on separate lots held and maintained by an entity of common ownership (e.g., Land/Homeowners Association).
- D. Those lots that contain and/or are crossed by a drainage easement shall have the following restriction—"Any lot area reserved for drainage purposes shall at all times be kept free of any obstructions to the flow of water. No improvements or modifications within the identified drainage easement area will be allowed without the approval of the City of Franklin Engineer. Maintenance of the drainage easement area, stormwater control facility(ies), and ditches shall be the responsibility of the owner(s) of the lot on which these facilities and/or ditches are located."

(8) Complaints: The City of Franklin authorized agent(s) shall investigate any complaint related to earth-disturbing activities covered by this section.

(9) ~~**Violations:** No person shall violate or cause or knowingly permit to be violated any of the provisions of this section, or fail to comply with any of its provisions or with any lawful requirements of any public authority made pursuant to it, or knowingly use or cause or permit the use of any lands in violation of this Section or in violation of any approval permit granted under this Section.~~

(10) Penalties:

- A. ~~Violation of any provision of this section, or any amendment or supplement thereto, or failure to comply with any of the requirements herein shall constitute a minor misdemeanor. Any person or persons violating any of the provisions herein shall be fined one hundred fifty dollars (\$150.00) per offense, and shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.~~
- B. ~~Upon notice from the City or its authorized agent(s), that work is being done contrary to this section, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or the owner's authorized agent, and shall state the conditions under which such work may resume; provided, however, in instances where immediate action is deemed necessary for the public safety or the public interest, the City may require that work be stopped upon verbal order pending issuance of the written order.~~
- C. ~~The imposition of any other penalties provided herein shall not preclude the City from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this section or other applicable laws, ordinances, rules, regulations, or orders.~~

EXHIBIT B**1111.05 STORMWATER AND DRAINAGE REQUIREMENTS AND STANDARDS**

- (a) **Stormwater Design Requirements and Standards:** The Design Requirements and Standards shall follow the Warren County Storm Water Design Manual.
- (b) **Erosion Prevention and Sediment Control:** These regulations and amendments thereto, shall be cited as the City of Franklin (City) Erosion Prevention and Sediment Control regulations and may hereinafter be referred to as “these regulations”.

- (1) **Statutory Authority:** These regulations are promulgated in accordance with Section 715 of the Ohio Revised Code, and chapter 3745-39 of the Ohio Administrative Code to implement Phase II of the storm water program of the National Pollutant Discharge Elimination System established in 40 C.F.R. Part 122.

These regulations shall require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses.

- (2) **Purpose:** The purpose of these regulations is to establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters within the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for non-agriculture, commercial, industrial, residential, or other non-agriculture purposes, and establish criteria for determination of the acceptability of those management and conservation practices.

The purposes of these regulations include, without limitation, the following:

- A. Permitting development while minimizing erosion and sedimentation.
- B. Reducing impairment of receiving streams which may be caused by erosion and sedimentation from construction and other earth disturbing activities.
- C. Encouraging innovative design which will enhance the control of erosion and sedimentation in a manner consistent with the intent of these regulations.

- (3) **Applicability:** These regulations are intended to conform to the requirements found in the Ohio Environmental Protection Agency (Ohio EPA) Phase II General Permit for Municipal Separate Storm Sewer Systems (MS4) and the associated OEPA Construction General Permit. As the OEPA permits are routinely updated, any inconsistencies in the requirements, definitions or verbiage between these regulations as compared to the OEPA permits shall assume the current permit language prevails.

These regulations shall apply to all earth disturbing activities covered in the Construction General Permit except for the following activities:

- A. Strip mining operations regulated under Section 1513.01 of the Ohio Revised Code;
- B. Surface mining operations regulated by Section 1514.01 of the Ohio Revised Code;
- C. Public highways, transportation, and drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the Ohio department of agriculture.
- D. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- E. Agricultural operations as defined in Section 106 of this regulation.

- (4) **Disclaimer of Liability:** Compliance with the provisions of these regulations shall not relieve any person from

responsibility for damage to any person otherwise imposed by law. The provisions of these regulations are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property. By approving a Storm Water Pollution Prevention Plan (SWP3) under these regulations, the City does not accept responsibility for the design, installation, and operation and maintenance of erosion control practices or facilities.

- (5) Conflicts, Severability, Nuisances and Responsibility: These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of these regulations should be considered minimum requirements, and where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

If any clause, section, or provision of these regulations is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

These regulations shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of these regulations shall not be a defense in any action to abate such a nuisance.

Failure of the City or its designated agent to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

- (6) Definitions: For the purposes of these regulations, the following terms shall have the meaning herein indicated; otherwise, words or terms not defined, or interpreted by these regulations or statutory or administrative law, shall have their customary meaning as interpreted by Ohio common law, or in the event no common law exists then as found in the most recent editions of published dictionaries.

Applicant - A property owner or agent of a property owner who has filed an application for an Earth Disturbing Permit.

Agriculture - Agriculture includes agricultureing; ranching; aquaculture; algaculture meaning the agricultureing of algae; apiculture and related apicultural activities, production of honey, beeswax, honeycomb, and other related products; horticulture; viticulture, winemaking, and related activities; 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; 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; and any additions or modifications to the foregoing made by the director of agriculture by rule adopted in accordance with Chapter 119. of the Revised Code.

Clean Water Act - The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction General Permit - Ohio Environmental Protection Agency's General Permit Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollution Discharge Elimination System.

Construction Site - Any parcel of land on which land has been disturbed for non-farming activity in the efforts to construct a new land or building feature.

Developer - Any individual, sub-divider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing land disturbance activities subject to these regulations.

Development/Construction Area - Any tract, lot, parcel of land or combination of such which are part of a larger common plan of development, upon which more than one acre of earth disturbing activity is to be performed.

Drainage - The removal of surface water or groundwater from land by surface or subsurface drains.

Earth Disturbing Activity - Any clearing, grading, excavating, grubbing, and/ or filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.

Earth Disturbing Permit - A permit to perform earth disturbing activities provided by the City or its designated agent once a developer/owner meets specific criteria as outlined in these regulations.

Environmental Protection Agency - The United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.

Erosion – The process by which the land surface is worn away by the action of water, wind ice or gravity.

Erosion and Sediment Control Plan - A strategy or plan to minimize erosion and prevent off-site sedimentation by passing sediment laden runoff through a sediment control measure, which has been prepared and approved in accordance these regulations and those requirements of the Construction General Permit. The erosion and sediment control plan is most often part of a larger set of construction drawings.

Grading – Earth disturbing activity such as excavation, stripping cutting, filling stockpiling, or any combination thereof.

NPDES – National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

Owner - Someone who holds the right of possession and title to a parcel or tract of land.

Phasing - Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Redevelopment – A construction project on land where impervious surface has previously been installed and where the new land use will not increase the runoff coefficient. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project.

Runoff – The portion of precipitation in excess of the infiltration capacity of underlying soils to absorb and contain which drains away from and runs of the surface of land.

Sediment – Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity, or ice, and has come to rest on the earth's surface.

Site owner or property owner – Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.

Soil disturbing activity or earth disturbing activity – Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.

Stop Work Order - An order issued which requires that all construction activity on a site be stopped.

Storm Water Pollution Prevention Plan (SWP3) - The SWP3 is a stand-alone document required by these regulations and the Construction General Permit for all construction sites disturbing one acre or more of land. The SWP3 describes all the construction site operator's activities to prevent storm water contamination, control sedimentation and erosion, manage post construction storm water runoff and comply with the requirements of the Clean Water Act.

- (7) Administration: The City may designate specific duties and responsibilities to a designated agent through the execution of a memorandum of understanding or contractual agreement. The City or it's designated agent may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of these regulations and may provide such information in the form of a Storm Water Design Manual. The manual may be updated and expanded from time to time, at the discretion of the City or its designated agent, based on improvements in engineering, science, monitoring and local maintenance experience.
- (8) Compliance with State and Federal Regulations: Approvals issued in accordance with these regulations do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies and other public entities having regulatory jurisdiction. Applicants may be required to show compliance with all applicable regulatory requirements.
- (9) Permit Requirements: No person shall begin land clearing and/or soil disturbing activities greater than 1 acre

until first obtaining an earth disturbing permit from the City or its designated agent.

Unless specifically excluded by these regulations, any landowner or operator desiring a permit for an earth disturbance activity shall submit a permit application. Unless otherwise excepted by these regulations, a permit application must be accompanied by the following in order that the permit application be considered: a SWP3, Operation and Maintenance documents, and a non-refundable permit review fee, if applicable.

Approvals issued in accordance with these regulations shall be void two years from the date of permit issuance unless soil disturbing activities have commenced. Appropriate and timely progress toward completion of work must occur, or the permit will be void.

An expired permit may be renewed by resubmitting all of the necessary requirements found in these regulations and the Storm Water Design Manual.

- (10) Inspection: The City or its designated agent may complete routine site inspections of land disturbance activities to evaluate compliance with the approved SWP3 and shall notify the permittee wherein the work fails to comply with the SWP3 as approved. The inspections may be performed monthly or more frequently. The inspector may enter the property of the applicant as deemed necessary to make regular inspections.

Plans for grading, stripping, excavating, and filling work which have been approved by the City or its designated agent shall be maintained at the site.

- (11) Maintenance Needs, Violations, Enforcement and Penalties: No person shall violate or cause or knowingly permit to be violated any of the provisions of these regulations, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations. All temporary erosion and sediment control practices shall be installed according to the timeline set forth in the approved SWP3 and in accordance with the Construction General Permit. These practices shall be maintained and repaired as needed to assure continued performance of their intended function. The developer/owner shall be responsible for such maintenance and repairs until the receipt of a notice of termination.

- A. If a deficiency or lack of installation of an erosion and sediment control practice is found, the inspector will communicate the need to the developer/owner, develop a timeline for compliance, and will afford the developer/owner an opportunity to bring the project back into compliance before moving the deficiency to a violation. Over the course of construction and through deterioration by use and weather, erosion and sediment control practices often need maintenance, repair or re-installation.

The developer/owner shall assign qualified inspection personnel to inspect all sediment and erosion control practices at a frequency set forth in the latest Construction General Permit. If any erosion and sediment control practice needs maintenance, repair or reinstall, the developer/owner shall comply with the timeline set forth in the Construction General Permit.

If the developer/owner is unresponsive or if the owner/developer does not comply with the inspector's requests or timeline to remediate the maintenance needs, deficiencies or lack of installed practices, the City or its designated agent can upgrade the maintenance need, deficiency or lack of installation to a violation.

- B. If the City or its designated agent determines that a violation of these regulations exists, the following actions may be taken.

- (i) An immediate stop work order may be issued if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. Persons receiving a stop work order will be required to halt all construction activities. This stop work order will be in effect until the City or its designated agent confirms that the development activity is in compliance and the violation has been satisfactorily addressed.
- (ii) If the violator has obtained proper permits, but an activity is not being carried out in accordance with the requirements of these regulations, the City or its designated agent may issue a written notice of violation.
- (iii) If after a period of not less than thirty days following the issuance of the notice of violation, the violation continues, the City or its designated agent may issue a second notice of violation.
- (iv) If after a period of not less than fifteen days following the issuance of the notice of violation, the violation continues, the City may issue a stop work order.

- (v) Once a stop work order is issued, the City may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) to abate the violation and secure compliance with these regulations. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order strict compliance with these regulations and may assess a civil fine of not less than one hundred or more than five hundred dollars for civil contempt by failing to comply with the court's order. Each day of violation shall be considered a separate violation subject to a civil fine. Once an injunction or other appropriate relief is issued, an expedited motion may be filed by the prosecuting attorney for future violations by the developer/owner requesting the Court to order the developer/owner to appear and show cause why the developer/owner should not be held in further contempt of the injunction or other appropriate relief ordered by the court.
 - (vi) The person to whom a stop work order is issued under this section may appeal the order to the court, seeking any equitable or other appropriate relief from that order.
 - C. No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the City.
 - D. No person shall violate these regulations. Notwithstanding division (B) of this section, if the City or its designated agent determines that a violation of these regulations or administrative order issued relating thereto, the City or its designated agent may request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate the violations of these regulations and secure compliance with these regulations or an administrative order. In granting relief, the court of common pleas may order strict compliance with these regulations or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars for civil contempt by failing to comply with the court's order. Each day of violation shall be considered a separate violation subject to a civil fine. Once an injunction or other appropriate relief is issued, an expedited motion may be filed by the prosecuting attorney for future violations by the developer/owner requesting the Court to order the developer/owner to appear and show cause why the developer/owner should not be held in further contempt of the injunction or other appropriate relief ordered by the court.
- (12) Appeals: Any person aggrieved by requirement, determination, or any other action or inaction by the City or its designated agent in relation to these regulations may appeal to the court of common pleas. Such an appeal shall be made in conformity with Chapters 2505 and 2506 the Ohio Revised Code.
- (c) **Post-Construction Storm Water Runoff Control**: These regulations and amendments thereto, shall be cited as the City of Franklin (City) Post-Construction Storm Water Runoff Control regulations and may hereinafter be referred to as "these regulations".
- (1) Statutory Authority: These regulations are promulgated in accordance with Section 4 Article XVII of the Ohio Constitution, and chapter 3745-39 of the Ohio Administrative code to implement phase II of the storm water program of the National Pollutant Discharge Elimination System established in 40 C.F.R. Part 122.
- These regulations shall require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses.
- (2) Purpose: The purpose of these regulations is to establish technically feasible and economically reasonable storm water management standards to achieve a level of storm water quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens within this jurisdiction. These regulations seek to meet that purpose through the following objectives:
- A. Control increases in storm water runoff from any new or redevelopment project in order to reduce flooding, siltation, increases in stream temperature and maintain the integrity of stream channels.
 - B. Control increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality.

- C. Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, where possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

- (3) Applicability: These regulations are intended to conform to the requirements found in the Ohio Environmental Protection Agency (Ohio EPA) Phase II General Permit for Municipal Separate Storm Sewer Systems (MS4) and the associated OEPA Construction General Permit. As the OEPA permits are routinely updated, any inconsistencies in the requirements, definitions or verbiage between these regulations as compared to the OEPA permits shall assume the current permit language prevails.

These regulations shall apply to all earth disturbing activities covered in the current version of the Ohio EPA Construction General Permit. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. The following activities may be exempt from these requirements:

- A. Any logging and agricultural activity which is consistent with an approved soil conservation plan.
- B. Additions or modifications to existing single family structures.
- C. Linear construction projects such as pipeline or utility line installation that does not result in the installation of additional impervious surfaces.

- (4) Disclaimer of Liability: Compliance with the provisions of these regulations shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of these regulations are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property. By approving a Storm Water Pollution Prevention Plan (SWP3) under these regulations, the City does not accept responsibility for the design, installation, and operation and maintenance of storm water management practices, facilities and improvements.

- (5) Conflicts, Severability, Nuisances and Responsibility: These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of these regulations should be considered minimum requirements, and where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

If any clause, section, or provision of these regulations is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

These regulations shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of these regulations shall not be a defense in any action to abate such a nuisance.

Failure of the City or its designated agent to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

- (6) Definitions: For the purposes of these regulations, the following terms shall have the meaning herein indicated; otherwise, words or terms not defined, or interpreted by these regulations or statutory or administrative law, shall have their customary meaning as interpreted by Ohio common law, or in the event no common law exists then as found in the most recent editions of published dictionaries.

Applicant - A property owner or agent of a property owner who has filed an application for an Earth Disturbing Permit.

Channel – A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clean Water Act - The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Developer - Any individual, sub-divider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing earth disturbance activities subject to these regulations.

Drainage – The removal of surface water or groundwater from land by surface or subsurface drains.

Environmental Protection Agency - The United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.

Erosion – The process by which the land surface is worn away by the action of water, wind ice or gravity.

Grading – Earth disturbing activity such as excavation, stripping cutting, filling stockpiling, or any combination thereof.

Impervious surface – Any material that prevents, impedes or slows the infiltration or absorption of stormwater into the ground, including building roofs and concrete or asphalt pavement.

Infiltration – A stormwater management practice that reduces discharge during the precipitation event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining stormwater pollutants in the facility.

Larger common plan of development – A contiguous area where multiple separate and distinct construction activities may be taking place at different times.

Nonpoint Source Pollution - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NPDES – National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

Post-development – The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.

Pre-development – The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.

Professional Engineer – A professional engineer registered in the State of Ohio.

Redevelopment – A construction project on land where impervious surface has previously been developed and where the new land use will not increase the runoff coefficient. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project.

Runoff – The portion of precipitation in excess of the infiltration capacity of underlying soils to absorb and contain which drains away from and runs off the surface of land.

Sediment – Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity, or ice, and has come to rest on the earth's surface.

Site owner, property owner or owner – Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.

Soil disturbing activity or Earth disturbing activity – Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased stormwater quantity and/or decreased stormwater quality.

Stop Work Order - An order issued which requires that all construction activity on a site be stopped.

Storm Water management facility – A structural or non-structural device, basin, infiltration cell, or other system approved by The City to collect, convey, and/or manage surface runoff.

Storm Water Pollution Prevention Plan (SWP3) - The SWP3 is a stand-alone document required by these regulations and the Construction General Permit for all construction sites disturbing one acre or more of land. The SWP3 describes all the construction site operator's activities to prevent storm water contamination, control sedimentation and erosion, manage post construction storm water runoff and comply with the requirements of the Clean Water Act.

Storm Water system – The system or network of storm and surface water management facilities.

Watershed – The drainage area in which a subdivision is located.

Wetland – Surface areas that are inundated or saturated by surface or groundwater at a frequency and duration

sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas (1987 Corp of Engineers Wetland Delineation Manual.)

- (7) Administration: The City may designate specific duties and responsibilities to a designated agent through the execution of a memorandum of understanding or contractual agreement. The City or its designated agent may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of these regulations and may provide such information in the form of a Storm Water Design Manual. The manual may be updated and expanded from time to time, at the discretion of the City, based on improvements in engineering, science, monitoring and local maintenance experience.
- (8) Compliance with State and Federal Regulations: Approvals issued in accordance with these regulations do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies and other public entities having regulatory jurisdiction. Applicants may be required to show compliance with all applicable regulatory requirements.
- (9) Permit Requirements: No landowner or land operator shall receive an Earth Disturbing Permit required for earth disturbance activities without first meeting the requirements of these regulations prior to commencing the proposed activity.

Unless specifically excluded by these regulations, any landowner or operator desiring a permit for a earth disturbance activity shall submit a permit application. Unless otherwise excepted by these regulations, a permit application must be accompanied by the following in order that the permit application be considered: a SWP3; Operation and Maintenance documents; and a non-refundable permit review fee, if applicable.

- (10) Stormwater Quantity Control: The Stormwater Pollution Prevention Plan shall describe how stormwater quantity control is achieved for each watershed in the development. Calculations shall follow the Critical Storm Methodology.
- (11) Final Inspection and Approval: To receive final inspection and a determination by the City or its designated agent that the approved SWP3 and the requirements of these regulations have been complied with in performing a construction project, the following must be completed.
- A. All permanent storm water management facilities must be installed, free of debris, and made functional per the approved SWP3.
 - B. An as-built survey, sealed, signed and dated by a Professional Surveyor and a written certification by a Professional Engineer certifying that permanent storm water management facilities, as designed and installed, meet the requirements of the approved SWP3 shall be delivered to and accepted by the City or its designated agent. The as-built survey must provide the location, dimensions, details, volume, and bearing of such facilities. In evaluating this certification, the City or its designated agent may require the submission of a new set of storm water calculations if he/she determines that the design was altered materially from the approved SWP3.
 - C. A Post-Construction Storm Water Management Requirements form must be completed and submitted to the City or its designated agent for each postconstruction storm water control feature contained in the approved SWP3.

- (12) Maintenance: All storm water treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured. The maintenance easement agreement that shall be binding on all subsequent owners of land served by the storm water management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by City or its designated agent to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by these regulations.

All storm water management facilities shall be maintained in accordance with the approved Maintenance Plans. The owners of all storm water management facilities required by this ordinance shall be maintained in accordance with standard best practices or may be declared a public nuisance.

If a responsible party fails or refuses to meet the requirements of maintenance, the City or its designated agent shall notify the party responsible for maintenance of the storm water management facility in writing. If after

proper notice, remedial activities are not performed, the City may seek an injunction or other appropriate relief in the court of common pleas to abate the violations of these regulations and secure compliance with these regulations or an administrative order. In granting relief, the court of common pleas may order strict compliance with these regulations or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars for civil contempt by failing to comply with the court's order. Each day of violation shall be considered a separate violation subject to a civil fine. Once an injunction or other appropriate relief is issued, an expedited motion may be filed by the prosecuting attorney for future violations by the developer/owner requesting the Court to order the developer/owner to appear and show cause why the developer/owner should not be held in further contempt of the injunction or other appropriate relief ordered by the court.

- (13) Maintenance Needs, Violations, Enforcement and Penalties: No person shall violate or cause or knowingly permit to be violated any of the provisions of these regulations, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.
- A. If the City or its designated agent determines that a violation of these regulations exists, the following actions may be taken.
 - (i) An immediate stop work order may be issued if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. Persons receiving a stop work order will be required to halt all construction activities. This stop work order will be in effect until the City or its designated agent confirms that the development activity is in compliance and the violation has been satisfactorily addressed.
 - (ii) If the violator has obtained proper permits, but an activity is not being carried out in accordance with the requirements of these regulations, the City or its designated agent may issue a written notice of violation.
 - (iii) If after a period of not less than thirty days following the issuance of the notice of violation, the violation continues, the City or its designated agent may issue a second notice of violation.
 - (iv) If after a period of not less than fifteen days following the issuance of the notice of violation, the violation continues, the City may issue a stop work order.
 - (v) Once a stop work order is issued, the City may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) to abate the violation and secure compliance with these regulations. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order strict compliance with these regulations and may assess a civil fine of not less than one hundred or more than five hundred dollars for civil contempt by failing to comply with the court's order. Each day of violation shall be considered a separate violation subject to a civil fine. Once an injunction or other appropriate relief is issued, an expedited motion may be filed by the prosecuting attorney for future violations by the developer/owner requesting the Court to order the developer/owner to appear and show cause why the developer/owner should not be held in further contempt of the injunction or other appropriate relief ordered by the court.
 - (vi) The person to whom a stop work order is issued under this section may appeal the order to the court, seeking any equitable or other appropriate relief from that order.
 - B. No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the City.
 - C. No person shall violate these regulations. Notwithstanding division (B) of this section, if the City or its designated agent determines that a violation of these regulations or administrative order issued relating thereto, the City or its designated agent may request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate the violations of these regulations and secure compliance with these regulations or an administrative order. In granting relief, the court of common pleas may order strict compliance with these regulations or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars for civil contempt by failing to comply with the court's order. Each day of violation shall be considered a separate violation subject to a civil fine. Once an injunction or other appropriate relief is

issued, an expedited motion may be filed by the prosecuting attorney for future violations by the developer/owner requesting the Court to order the developer/owner to appear and show cause why the developer/owner should not be held in further contempt of the injunction or other appropriate relief ordered by the court.

- (14) Appeals: Any person aggrieved by requirement, determination, or any other action or inaction by the City or its designated agent in relation to these regulations may appeal to the court of common pleas. Such an appeal shall be made in conformity with Chapters 2505 and 2506 the Ohio Revised Code.

Legislative Cover Memo

Introduction: April 19, 2021

Public Hearing: May 3, 2021

Effective Date: June 2, 2021

Agenda Item: **Ordinance 2021-06**
AMENDING CHAPTER 1103 DEFINITIONS AND SECTION
1107.03 COMMERCIAL DISTRICTS OF THE CITY OF
FRANKLIN UNIFIED DEVELOPMENT ORDINANCE

Submitted by: Barry Conway, City Engineer

Scope/Description: This Ordinance would amend Chapter 1103, Definitions and Section 1107.03, Commercial Districts of the Unified Development Ordinance. These amendments would add Food Related Retail to the definitions, modify the definitions of Fast Food Restaurants and Retail. Food Related Retail would be added to Table 7: Uses in Commercial Districts of Section 1107.03 in the UDO.

Vote Required for Passage: Per Section 4.12 of the City Charter, the passage, amendment, or rejection of this Ordinance requires the affirmative vote of not less than four members of the Council.

Exhibits: Exhibits A and B.

Recommendation: These amendments originated at Planning Commission, who held a public hearing on the proposed changes at its April 12, 2021 meeting. At that meeting, Planning Commission voted unanimously (6-0) to recommend Council approve these amendments.

CITY OF FRANKLIN, OHIO
ORDINANCE 2021-06

**AMENDING CHAPTER 1103 DEFINITIONS AND SECTION 1107.03 COMMERCIAL DISTRICTS OF THE CITY
OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, Section 1115.04 of the City's Unified Development Ordinance (UDO) allows amendments to the text of the UDO to be initiated by Planning Commission, upon its own motion;

WHEREAS, the Franklin City Planning Commission initiated, upon its own motion, Planning Commission Case PC-21-05, making certain amendments to Chapter 1103, Definitions and Section 1107.03 Commercial Districts of the UDO;

WHEREAS, the procedures with regard to amendments to the UDO, as set forth in Section 1115.04 of the UDO have been followed;

WHEREAS, The Franklin City Planning Commission, at its April 12, 2021, regular meeting, voted 6-0 to approve Planning Commission Case No. PC 21-05, recommending Council approval of the proposed text amendments, and

WHEREAS, this Council finds it to be in the best interests of the health, safety and welfare of the City and its inhabitants to adopt Planning Commission's recommendations and make certain amendments to the City's Unified Development Ordinance,

THE CITY OF FRANKLIN HEREBY ORDAINS, at least four (4) members of the Council elected thereto concurring, that:

Section 1. Chapter 1103 and Section 1107.03 Commercial Districts of the City of Franklin Unified Development Ordinance are hereby amended, as shown on the attached Exhibit A and B.

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 3. This Ordinance shall go into effect on June 2, 2021.

INTRODUCED: April 19, 2021

ADOPTED: May 3, 2021

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2021-06 passed by that body on May 3, 2021.

Khristi Dunn, Clerk of Council

Approved as to form: _____
Lynnette Dinkler, Law Director

Exhibit A

Chapter 1103: Definitions

Interpretation:

- (a) For the purposes of this UDO, the following terms, phrases, words and their derivations shall be interpreted as follows:
 - (1) Words used in the singular shall include the plural, and the plural the singular;
 - (2) Words used in the present tense shall include the future tense;
 - (3) Words in the masculine gender shall include the feminine;
 - (4) The words “shall” and “will” are mandatory and not discretionary;
 - (5) The word “may” is permissive;
 - (6) “Person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual;
 - (7) “Used” or “occupied” includes “intended,” “designed” or “arranged to be used or occupied;”
 - (8) “Building” includes “structure” and “structure” includes “building;”
 - (9) “Dwelling” includes “residence” and “residence” includes “dwelling;” and
 - (10) “Lot,” “plot” and “parcel” are interchangeable.
- (b) In case of any difference in meaning or implication between the text of this UDO and any caption or illustration, the text shall control.
- (c) Terms not herein defined shall have the meaning customarily assigned to them.

In addition, as used in this UDO, the following definitions apply unless otherwise indicated:

Acceptance of Application – An APPLICATION is not accepted by the CITY until all the information required for submittal is provided and verified by the APPLICANT.

Acceptance of Public Way or RIGHT-OF-WAY or Utility – No public way, RIGHT-OF-WAY, STREET or utility (including, but not limited to, water and sewer) shall be considered accepted by the CITY until such improvements have been constructed, inspected by the CITY ENGINEER or his designee, and formally accepted, by ordinance, by COUNCIL.

Accessory Facilities – These uses are permitted in the Office-Research Park District. Such uses include facilities for custodial, gardening, maintenance and caretaker services for the BUILDINGS, STRUCTURES and grounds on the site. Such uses also include conference centers with temporary lodging, communication centers, training facilities, maintenance shops and machine shops.

Accessory Use/Structure – A use or detached, subordinate BUILDING or STRUCTURE on the same LOT as the principal use and of a nature customarily incidental and subordinate to the MAIN USE or MAIN BUILDING (See also DETACHED GARAGES AND SHEDS and GARAGE, PRIVATE).

Activity Space – Floor space provided in a child-care facility that is designed, intended for use, or primarily used for open play or general care area.

Adjacent Property – For the purposes of this UDO, a subject property is adjacent to another property or a ZONING DISTRICT when it is contiguous to the other property, across the STREET from the other property, or across a railroad RIGHT-OF-WAY from the other property.

ADT – Average daily traffic volumes of VEHICLES on a STREET.

Adult Arcade – Any place to which the public is permitted or invited where either or both:

- A. Motion picture machines, projectors, video or laser disc players; or
- B. Other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five (5) or fewer individuals at one time;

and where the images shown and/or live entertainment presented are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

Adult Bookstore or Adult Media (Video) Store or Adult Novelty Store – A commercial establishment that has forty percent (40%) or more of its STOCK-IN TRADE OR INVENTORY in, derives forty percent (40%) or more of its revenues from, devotes forty percent (40%) or more of its interior business or advertising to, or maintains forty percent (40%) of its sales or display space for the sale or rental, for any form of consideration, of ADULT ENTERTAINMENT, ADULT MEDIA or SEXUALLY

ORIENTED NOVELTIES OR TOYS. The existence of other principal business purposes that do not involve the offering for sale, rental or viewing of materials exhibiting or describing ADULT ENTERTAINMENT, ADULT MEDIA or SEXUALLY ORIENTED NOVELTIES OR TOYS and still be categorized as an Adult Bookstore, Adult Media Store or Adult Novelty Store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials.

Adult Cabaret – A nightclub, BAR, juice bar, RESTAURANT, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- A. Persons who appear in a state of NUDITY or state of SEMI-NUDITY; or
- B. Live entertainment characterized by the depiction or description of SPECIFIED ANATOMICAL AREAS or SPECIFIED SEXUAL ACTIVITIES; or
- C. Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
- D. Exhibiting films, motion pictures, video cassettes, video discs, DVDs, CDs, slides or other photographic or electronic reproductions, whether analog or digital, which are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

Adult Entertainment – The sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, DVDs, CDs or other photographic or electronic reproductions, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of SPECIFIED ANATOMICAL AREAS or SPECIFIED SEXUAL ACTIVITY.

Adult Entertainment Establishment – An ADULT ARCADE, ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT MEDIA (VIDEO) STORE, ADULT CABARET, ADULT MOTION PICTURE THEATER, ADULT THEATER, NUDE OR SEMI-NUDE MODEL STUDIO or SEXUAL ENCOUNTER ESTABLISHMENT. An establishment in which a medical practitioner, psychologist, psychiatrist or similar profession licensed by the State of Ohio engages in medically approved and recognized therapy including, but not limited to, massage therapy, as regulated pursuant to ORC 4731.15, is not an Adult Entertainment Establishment.

Adult Family Home – A residential facility providing accommodations and personal care services for one to five (1-5) unrelated individuals that is licensed by the State as a residential facility and that meets the criteria specified in ORC 5119.34(A)(9)(b).

Adult Group Home – A residential facility providing accommodations and personal care services for six to sixteen (6-16) unrelated individuals that is licensed by the State as a residential facility and that meets the criteria specified in ORC 5119.34(A)(9)(b).

Adult Media – Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, DVDs and CDs, slides or other visual representations that are distinguished or characterized by an emphasis on the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

Adult Motel – A HOTEL/MOTEL or similar commercial establishment that:

- A. Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS; and has a SIGN visible from the public RIGHT-OF-WAY which advertises the availability of this sex-oriented type of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater – A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

Adult Theater – A theater, concert hall, auditorium, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of NUDITY or SEMI-NUDITY;
- B. Live performances which are characterized by the depiction or description of SPECIFIED ANATOMICAL AREAS, SPECIFIED SEXUAL ACTIVITIES, or

- C. Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.

Agriculture – Agriculture means farming; ranching; 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; 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. Agriculture shall not be permitted in any residential ZONING DISTRICT with the following exceptions:

- A. The raising of fruit or vegetables for private use;
- B. Limited agricultural uses permitted as-of-right in the R-1A, Estate Residential Districts for LOTS of two (2) acres or more (see Section 1113.07, Supplementary Regulations); and
- C. The keeping of small farm animals may be allowed as a CONDITIONAL USE Permit in the R-1A, Estate Residential District for LOTS under two (2) acres (see Section 1113.01, Conditional Uses).

Alcohol and Drug Addiction Treatment Facilities – A licensed facility that provides inpatient treatment, including room and board, to individuals addicted to substances of abuse, including alcohol, legal drugs and/or illicit drugs, which treatment may include counseling, psychology, social work, psychiatry, internal medicine and the administration of medications for treatment purposes.

Alteration – Any change, addition or modification in CONSTRUCTION or type of occupancy; or any change in the structural members of a BUILDING, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed.”

Alternative Finance Service Provider – Any type of business other than a CHECK-CASHING BUSINESS, CREDIT SERVICE ORGANIZATION, SHORT-TERM LOAN LENDER, MORTGAGE LOAN LENDER, as those terms are defined in this UDO, that cashes checks, provides credit services, or makes short term loans, small loans, mortgage loans or other loans secured by personal check, electronic access to the borrower’s bank account, or by title to the borrower’s car or other personal property. Alternative Finance Service Provider does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Ancillary Business Offices – An OFFICE use that is:

- A. Subordinate in area, extent and purpose to the principal use;
- B. Contributes to the comfort, convenience, efficiency or necessity of the principal use; and
- C. Is located on the same LOT and in the same ZONING DISTRICT as the principal use.

Antenna – Any exterior transmitting or receiving device mounted on a TOWER, BUILDING or STRUCTURE and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna Support Structure – Any BUILDING or other STRUCTURE, other than a TOWER, that can be used for location of WIRELESS TELECOMMUNICATIONS FACILITIES.

Appeals Board – The quasi-judicial board, appointed in accordance with the City Charter, which hears and decides VARIANCE applications, hears and decides appeals of any administrative zoning decision by any CITY official, and reviews and resolves disputes over the interpretation of this UDO, all as outlined in this UDO (Also known as the “Board of Zoning, Building and Housing Appeals”).

Applicant (or owner) – The owner(s) of the property, or their designated representative(s), who applies for a certificate of zoning compliance, zoning amendment, SUBDIVISION, CONDITIONAL USE, VARIANCE or other approval pursuant to this UDO.

Application – The process by which an APPLICANT submits a request and indicates a desire to be granted approval under the provisions of this UDO. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an APPLICANT to the CITY concerning such a request.

Approval Authority – An official, organization, group, board or other authority designated to review and approve/disapprove APPLICATIONS.

Aquifer – A geologic formation, group of geologic formations, or part of a geologic formation that contains enough saturated permeable material to yield significant quantities of water.

Architect – A PERSON registered to engage in the practice of architecture under the provisions of ORC Chapter 4703.

Arts and Crafts Studio – A commercial establishment that provides, as its PRIMARY ACTIVITY, goods produced on the premises for retail sale to the general public on the premises. Such use is completely enclosed in a BUILDING and does not use equipment that would cause noxious effects, such as smoke, odor or noise that would be deterred on surrounding properties. Such uses comprise a part of use groups B, F-2 or M of the Ohio Building Code, and include uses such as art studios and pottery shops.

Assembly Space – Floor space provided in a BUILDING that is designed, intended for use, or used primarily for group assembly, including space with both fixed and movable seating.

Assisted-Living, Life Care or Continuing Care Facilities – A residential facility, other than a single-family home, for the aged or infirm, or any other reasonably independent individual in need of limited care, that provides health monitoring services and assistance with daily activities (such as taking medicine, meals, dressing, grooming, and bathing) and may provide other services (such as recreational, social, educational and cultural activities, transportation and financial services) and which is not equipped for surgical care or for treatment of acute disease or serious injury, and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

Authorized Agent – An official, organization, or group designated to provide technical guidance in the development and implementation of site DEVELOPMENT PLANS and/or STORMWATER POLLUTION PREVENTION PLANS and to review and approve/disapprove such plans as authorized.

Automobile – See GASOLINE SERVICE STATION, MOTOR VEHICLE and VEHICLE.

Awning – A hood or cover that projects from the wall of a BUILDING and which can be retracted, folded, or collapsed against the face of the supporting BUILDING.

Banner – A non-rigid cloth, plastic or canvas SIGN typically related to a special event or promotion. National FLAGS, state or municipal FLAGS shall not be considered banners, nor shall the official FLAG of any institution or business be considered a banner.

Bar (or Tavern) – A commercial establishment that provides, as its PRIMARY ACTIVITY, the sale of alcoholic beverages for consumption on the premises inside of a BUILDING. Such use comprises a part of use group A-2 of the Ohio Building Code.

Base Flood – The flood having a one percent (1%) chance of being equaled in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or the one hundred (100) year flood.

Base (100-year) Flood Elevation (BFE) – The water surface elevation of the BASE FLOOD in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in feet mean sea level (MSL). In *Zone AO* areas, the base flood elevation is the natural GRADE elevation plus the depth number (from 1 to 3 feet).

Basement – Any area of the BUILDING having its floor subgrade below ground level on all sides.

Bed and Breakfast – An existing single-family residence that provides one to five (1-5) rooms (limited to two individuals or one FAMILY per unit/room) for occasional paying guests on an overnight basis, for periods not to exceed seven (7) consecutive days, with breakfast being available on premises at no additional cost.

Billboard – An off-premise, outdoor SIGN exceeding fifty square feet (50 sq. ft.) in area. Billboards are prohibited under this UDO.

Block – An area of land within a SUBDIVISION that is entirely bounded by STREETS or highways (except alleys) or a combination of STREETS, highways or ways and/or rivers, streams, railroad RIGHT-OF-WAYS or other exterior boundaries of the SUBDIVISION.

BMP – Best Management Practices for stormwater, as defined by this UDO and the Ohio EPA.

Boarding House – A residential facility that provides sleeping rooms for rent. Boarding houses are not permitted in any ZONING DISTRICT.

Buffer – A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. CONSTRUCTION activities in this area are restricted or prohibited (See GREENBELT).

Buffer Lot – A LOT on a PLAT across the end of a STREET proposed to be extended by future platting, or a LOT along the length of a STREET where only part of the width has been dedicated, retained by the owner but conditionally dedicated on the PLAT for STREET purposes when the STREET is extended or widened.

Buffer Yard – Landscape areas adjoining or surrounding a land use and unoccupied in its entirety by any BUILDING or STRUCTURE.

Building – Any STRUCTURE designed or intended for the support, enclosure, shelter or protection of PERSONS, animals, chattels or property. When separated by a firewall, each portion of such building so separated shall be deemed as a separate building.

Building Frontage – The wall of the BUILDING that determines where SIGNS may be placed and the total allowable area of such SIGNS. Only walls that face a STREET, driveway or PARKING AREAS that serves the use shall be considered as building frontage, as determined by the ZONING OFFICIAL. Building frontage shall be measured for the length of the BUILDING occupied by the use or tenant(s), and shall be computed as near to ground level as computation of horizontal distance permits. In cases where this test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance, the ZONING OFFICIAL, in his sole discretion, shall select building frontage on the basis of interior layout of the BUILDING, traffic on adjacent STREETS or other indicators.

Building Height – The vertical distance measured from the established GRADE to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a BUILDING is located on sloping terrain, the height may be measured from the average ground level of the GRADE at the building wall.

Building Line – A line established on a PARCEL which is parallel to a street RIGHT-OF-WAY line for the purpose of prohibiting CONSTRUCTION of a BUILDING between such line and an EASEMENT, RIGHT-OF-WAY or public area.

Business, Professional – These uses include, but are not limited to, administrative offices, clerical/financial offices, and professional services offices (ARCHITECTS, attorneys, ENGINEERS, dentists, physicians, etc.). All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B of the Ohio Building Code.

Business, Retail – A commercial establishment that provides, as its PRIMARY ACTIVITY, sales of goods to other commercial establishments. Such use is completely contained within a BUILDING and comprises a part of use group B or M of the Ohio Building Code. Examples of such uses include, but are not limited to, office furniture stores and office supply stores.

Business, Service – A commercial establishment that provides, as its PRIMARY ACTIVITY, sales of services to other commercial establishments. Such use is completely contained within a BUILDING and comprises a part of the use group B or M of the Ohio Building Code. Examples of such uses include, but are not limited to, uniform and linen services.

Business Sign – A SIGN directing attention to a business, product, service or activity conducted or sold on the LOT where the SIGN is displayed.

Campground – A publicly or privately owned parcel of land designed, designated, maintained, intended, or used for the purpose of supplying a location for seasonal, recreational, and temporary living purposes in tents, trailers, travel trailers, motor home, cabins or similar facilities, whether or not a fee or charge is paid for the rental thereof, but does not include a mobile home or a mobile home park. Campgrounds are prohibited under this UDO.

Canopy – A projection from a BUILDING made from any material, which is cantilevered, suspended or supported on columns intended only for shelter or ornamentation.

Canopy Sign – A SIGN directing attention to a business, product, service or activity conducted or sold on the LOT where the SIGN is displayed that is mounted on a MARQUEE, attached to or printed on the fascia or valence of a CANOPY or MARQUEE, or hanging from the soffit (i.e. underside) of such structure.

Cemeteries – Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and MORTUARIES, if operated in connection with and within the boundaries of such cemetery.

Changeable Copy Sign (manual) – A SIGN, or portion thereof, on which characters, letters, or illustrations are changed manually in the field without altering the face or surface of the SIGN, including without limitation, a reader board with changeable letters.

Changeable Copy Sign (mechanical or electronic) – A SIGN, or portion thereof, on which characters, letters, or illustrations are changed mechanically or electronically in the field without altering the face or surface of the SIGN, including without limitation, an electronic or mechanical message center.

Check-Cashing Business – Any business that is licensed, or is required to be licensed, under ORC 1351.21 through 1351.30 to cash checks. Check-cashing business does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Church and Similar Place of Worship – A BUILDING, together with its ACCESSORY USES/STRUCTURES, where PERSONS regularly assemble for religious worship, and which, together with its ACCESSORY USES/STRUCTURES, is maintained and controlled by a religious body organized to sustain public worship. Nursery, kindergarten, DAY CARE and compulsory (grades 1 through 12) schools may be permitted as ACCESSORY USES to a church.

City – The incorporated municipality of Franklin, Ohio. For the purposes of this UDO, the term “City” shall also include Franklin City Council, Planning Commission, Appeals Board, Technical Review Committee, Historic District Review Board and/or City administrative staff or employees.

City Engineer – The person holding the title of City Engineer of the City of Franklin, or his designee.

City Manager – The person holding the title of City Manager of the City of Franklin, or his designee.

Clear Sight Triangle – The triangular area formed by a diagonal line connecting two points located on intersecting lines of a RIGHT-OF-WAY, EASEMENT of access, or pavement edge of an access drive, each point being twenty feet (20') from the intersecting lines and extending vertically from a height of three feet (3') above GRADE to ten feet (10') above GRADE.

Co-location – The use of a wireless telecommunications facility by more than a single wireless telecommunications provider.

Colleges and Universities – An institution, other than a trade school, that provides full-time or part-time education beyond SENIOR HIGH SCHOOL.

Commercial Entertainment – A commercial establishment that provides, as its PRIMARY ACTIVITY, space for various types of sporting and/or leisure activities. Such use is completely contained within a BUILDING and comprises part of use group A or B of the Ohio Building Code, whichever is appropriate. Examples of such uses include, but are not limited to, skating rinks, bowling alleys, indoor PLAYGROUNDS and MOVIE THEATERS.

Commercial Recreation – see RECREATION, COMMERCIAL.

Commercial Training – A commercial establishment (excluding any SENIOR HIGH SCHOOLS, COLLEGES OR UNIVERSITIES) that provides, as its PRIMARY ACTIVITY, any type of training, vocational, self-help or special interest to the general public for a fee. Such use is completely contained within a BUILDING and comprises part of use group E of the Ohio Building Code. Examples of such uses include, but are not limited to, dance studios, beauty schools, and martial arts studios.

Common Open Space – Squares, greens, neighborhood PARKS and linear environmental corridors, which may be owned and maintained by the CITY, a HOMEOWNERS' ASSOCIATION, CONDOMINIUM OWNERS' ASSOCIATION or DEVELOPER.

Community Centers/Facilities – A place, STRUCTURE, area or other facility used for social and recreational programs open to the public and designed to accommodate and serve significant segments of the community. A community center may also be referred to as a convention center or a civic center.

Comprehensive Development Plan or Comprehensive Land Use Plan – The plan, which may consist of several maps, data and other descriptive matter, for the physical DEVELOPMENT of the CITY and which has been adopted by the PLANNING COMMISSION and COUNCIL to indicate the general locations for proposed planning areas, major STREETS, PARKS, schools, public building sites and other similar information.

Conditional Use – A use that may be permitted within a ZONING DISTRICT (other than a principally permitted use), which is required to fulfill additional requirements because of its potential impact on the surrounding community. Such a use requires APPLICATION for a conditional use and approval by the PLANNING COMMISSION.

Condominium – A form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to ORC 5311. and under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.

Condominium Owners' Association – The organization that administers condominium property and that consists of all the owners of units in a condominium property.

Conservation Development (or Planned Residential Conservation Overlay District) – A contiguous area of land to be planned and developed as a single entity, in which housing units are accommodated with more flexible standards, such as building arrangements and SETBACKS, than those that would normally apply under single-family residential ZONING DISTRICT regulations, allowing for the flexible grouping of houses in order to conserve OPEN SPACE and existing natural resources.

Construction – For the purposes of this UDO, construction is deemed to begin when all necessary EXCAVATION and piers or footing of one or more principal BUILDINGS, or the installation of required infrastructure, has been completed or substantially begun.

Construction Sign – A SIGN directing attention to CONSTRUCTION upon property where the SIGN is displayed, and bearing the name, address, sub-lot number or other identifier of the contractor.

Consumer Retail – A commercial establishment (excluding a RESTAURANT or VEHICLE DEALER) that provides, as its PRIMARY ACTIVITY, sales of goods to the general public. Such uses generally require locations on or near major thoroughfares or their intersections. Such use is completely contained within a BUILDING and comprises a part of the use group M of the Ohio Building Code. Examples of such use include, but are not limited to, supermarkets, stores that sell hardware, apparel, footwear, jewelry, toys, sporting goods, automotive parts, cosmetics and toiletries, and appliances and home furnishings, department stores and discount stores.

Convenience Store – A retail sales business that sells household consumer merchandise, beverages, cigarettes, packaged foods, and/or the preparation and sales of delicatessen sandwiches, ice cream counters or other foods, and other related items. (See also GASOLINE SERVICE STATION/CONVENIENCE STORE).

Corner Lot – See LOT.

Council – The Council of the City of Franklin, Ohio.

Covering – Any clothing or wearing apparel, including pasties, but not including any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.

Credit Service Organization – Any business that is registered, or is required to be registered, under ORC 4712.01 to 4712.14 to provide credit services as defined in ORC 4712.01(C). Credit service organization does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Critical Storm – A storm that is calculated by means of the percentage increase in volume of runoff by a proposed earth disturbing activity or DEVELOPMENT AREA. The critical storm is used to calculate the maximum allowable storm water discharge rate from a site.

Crosswalk – A RIGHT-OF-WAY, dedicated to public use, which crosses a BLOCK to facilitate pedestrian access to adjacent STREETS and ADJACENT PROPERTIES.

Crown – The upper mass or head of a tree.

Cultivar – A cultivated variety of plant material grown for its special form and characteristics.

Cul-de-sac – A short STREET having one open end and being permanently terminated by a vehicular turn-around.

Curb Radius – The curved edge of STREETS at an intersection measured at the outer edge or face of the street curb or of the parking lane.

Cut – An EXCAVATION; the difference between a point on the original GRADE and a designated point of lower elevation on the final GRADE.

Day Care Center, Adult – Any place where adult day care services are provided, with or without compensation, for a daily average of five (5) or more adults, excluding relatives of the owner or administrator of the center.

Day Care Center, Child – Any place where child day care and/or learning experiences are provided, with or without compensation, for a daily average of five (5) or more infants, preschool children or school-age children (outside of school hours), excluding children of the owner or administrator of the center.

Deciduous – Plant material that normally sheds its foliage at the end of the growing season.

Deck – A platform, without a roof, that is either:

- A. Freestanding or directly adjacent to a principal BUILDING; or
- B. Attached to the BUILDING.

Dedication – The granting, by the property owner, of land by fee simple, or an EASEMENT therein, for the use of the public and accepted by COUNCIL for such use by, or on behalf of, the public.

Detention Basin – A normally dry bottom impoundment area created by constructing an embankment, excavating a pit, or both, for the purpose of temporarily storing stormwater and gradually releasing the stored water at a controlled rate.

Detention Facility – A DETENTION BASIN or alternative STRUCTURE designed to temporarily store stormwater runoff and gradually release the stored water at a controlled rate.

Developer – Any PERSON, corporation, association, partnership or other entity who creates or proposes to create a residential, commercial, industrial or mixed use development, all or a portion of which will be located within the CITY.

Development – Any man-made change to improved or unimproved real estate including, but not limited to, BUILDINGS or other STRUCTURES, MINING, dredging, FILLING, grading, paving, EXCAVATION or drilling operations or storage of equipment and materials.

Development Area – Any contiguous area owned by one PERSON or operated as one development unit included within the scope of the regulations of this UDO, upon which earth-disturbing activities are planned or underway.

Development Plan – A plan submitted with an APPLICATION for a Planned Unit Development Overlay District, in accordance with the requirements of Section 1109.05 of this UDO, or a Planned Residential Conservation Overlay District (see CONSERVATION DEVELOPMENT), in accordance with the requirements of Section 1109.06 of this UDO.

District – See ZONING DISTRICT.

Direct Recharge Area – That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

Directional Sign – A SIGN intending to direct the safe flow of vehicular and pedestrian traffic, including, but not limited to, “enter,” “exit,” “one way” and “narrow” signs.

DNR – the Ohio Department of Natural Resources.

Drive-Through Retail – A commercial establishment that provides either all or some portion of its goods and/or services for use to the general public at an outside service window or drive-through bays. Such goods and services may also be obtained inside the BUILDING. Such use comprises a part of use groups B, A-2 or M of the Ohio Building Code. Examples of such uses include, but are not limited to, drive-through party stores, banks with drive-throughs, freestanding ATM’s, and/or car washes, whether automatic or manual, but does not include food-related retail (See also FAST FOOD RESTAURANTS).

Dwelling or Dwelling Unit – Any BUILDING or portion thereof designed, intended or used primarily for residential purposes (i.e., human habitation), including cooking and sanitary facilities. The term does not include a TENT, cabin, trailer, mobile home, BOARDING HOUSE, HOTEL/MOTEL. For the purposes of this UDO, dwellings shall be defined as the following types:

- A. *Dwelling, Multi-family* – A BUILDING or portion thereof designed, intended or used primarily for residential purposes to be occupied by more than three (3) families living independently of one other.
- B. *Dwelling, Row House (or Town House)* – A BUILDING or portion thereof designed, intended or used primarily for residential purposes. Row house dwellings are situated so that their sidewalls are shared with other like STRUCTURES, all having their own separate entrances and being separate LOTS OF RECORD.
- C. *Dwelling, Single-Family* – A BUILDING designed, intended or used primarily for residential purposes to be occupied by one (1) FAMILY.
- D. *Dwelling, Three-Family* – A BUILDING or portion thereof designed, intended or used primarily for residential purposes to be occupied by not more than three (3) families living independently of one another.
- E. *Dwelling, Two-Family* – A BUILDING or portion thereof designed, intended or used primarily for residential purposes to be occupied by two (2) families living independently of one another.
- F. *Dwelling Unit, Upper Floor* – A single unit or multiple units above ground level of an existing STRUCTURE providing complete, independent living facilities for one or more individuals and including the permanent provision for living, sleeping, eating, cooking and sanitation.

Earth-Disturbing Activity – Any grading, EXCAVATION, FILLING, or other alteration of the earth's surface where natural or man-made ground cover is destroyed.

Easement – A right-of-use over or in the property of another, granted by the owner for specific public or semi-public purposes and accepted by COUNCIL for such use by, or on behalf of, the public.

Efficiency or Efficiency Unit – Efficiencies shall be regulated by the Ohio Building Code, and those provisions of the Building Code regulating efficiencies shall take precedence over the provisions of this UDO.

Elderly Housing – An age-restricted residential development in any housing form that qualifies for an exemption as “housing for older persons” under the *Federal Fair Housing Amendments Act of 1988*, 42 USC 3607(b), and any amendments thereto.

Elementary School – A school or institution serving students between kindergarten through sixth grade (K - 6th).

Emergency – A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause SUBSTANTIAL DAMAGE to property, which calls for immediate action.

Engineer – A PERSON licensed by the State of Ohio and registered as a professional engineer under ORC 4733.

Environmental Sciences – These uses are permitted in the Office-Research Park District and include, but are not limited to, the following uses: laboratories engaged in testing and research, pharmaceutical laboratories, and bionomic laboratories. All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B, F-1 or F-2 of the Ohio Building Code.

EPA – The Ohio Environmental Protection Agency.

Equipment Shelter and/or Cabinet – The STRUCTURE in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.

Essential Services – The erection, CONSTRUCTION, ALTERATION or maintenance by public utilities or by governmental entities of underground, surface or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including TOWERS, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith (but not including BUILDINGS) that are necessary for the furnishing of adequate service by such utilities or governmental entities for the general health, safety or welfare.

Evergreen – Plant material that has foliage that remains green throughout the year.

Excavation – Any breaking of ground except common household gardening and ground care.

Executive Order 11988 (Floodplain Management): This order was issued by President Carter in 1977, and requires that no federally-assisted activities be conducted in, or have the potential to, affect identified SPECIAL FLOOD HAZARD AREAS unless there is no practicable alternative.

FAA – The Federal Aviation Administration, and any legally appointed, designated or elected agent or successor.

FCC – The Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

Family – One or more individuals occupying a single DWELLING UNIT, provided that unless all individuals are related by blood, marriage or adoption, no family shall contain over five (5) individuals but further provided that a family related by blood, marriage or adoption may have a total of two (2) non-related individuals living with it.

Family Home for the Physically and Mentally Disabled – A residential facility licensed under ORC 5123.19 that provides room and board, personal care, habilitation services and supervision in a family setting for at least six, but not more than eight individuals (6-8), with mental retardation or developmental disability.

Farm Market – The offering for sale of fresh agricultural products directly to the consumer in an open-air market.

Fast Food Restaurants – An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state of consumption within the restaurant building, within a MOTOR VEHICLE parked on the premises, or off the premises as a carry-out order, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposal containers. Examples of such uses include drive-through restaurants that prepare and/or dispense food or beverages and do not provide a place for all its customers to eat inside the BUILDING, or which serve food or beverages for carry out, or drive-in eating and drinking places, establishments where customers may serve themselves and may eat or drink the food or beverages on the premises, ~~and ice cream stands.~~

FEMA - Federal Emergency Management Agency.

Fill or Filling – Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the resulting GRADE conditions; the difference in elevation between a point on the original ground and a designated point of higher elevation on the final GRADE.

Final Plat – A final map of all or part of the SUBDIVISION prepared and certified by an ENGINEER or SURVEYOR in accordance with the requirements and regulations of this UDO, which is submitted to the CITY for final approval before recording at the office of the Warren County Recorder.

Five-Year Capture Area – The area around PROTECTED PUBLIC WATER SUPPLY/WELL FIELDS delineated by the five-year travel time contour.

Flag – Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of domestic government, political subdivision or other governmental agency, and attached to or designed to be flown from a flagpole or similar device.

Flag, International – Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a foreign country or government, and attached to or designed to be flown from a flagpole or similar device.

Flashing – A SIGN or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change.

Flashing Sign – Any ILLUMINATED SIGN that exhibits changing light and/or color effects.

Flood or Flooding – A general or temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters, and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) – An official map on which the Federal Emergency Management Agency or the US Department of Housing and Urban Development has delineated the areas of special flood hazard.

Flood Insurance Risk Zones – Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

- A. *Zone A* – SPECIAL FLOOD HAZARD AREAS inundated by the 100-year flood; BASE FLOOD ELEVATIONS are not determined.
- B. *Zones A1-30 and Zone AE* – SPECIAL FLOOD HAZARD AREAS inundated by the 100-year flood; BASE FLOOD ELEVATIONS are determined.
- C. *Zone AO* – SPECIAL FLOOD HAZARD AREAS inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
- D. *Zone AH* – SPECIAL FLOOD HAZARD AREAS inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); BASE FLOOD ELEVATIONS are determined.
- E. *Zone A99* – SPECIAL FLOOD HAZARD AREAS inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under CONSTRUCTION; no BASE FLOOD ELEVATIONS are determined.
- F. *Zone B and Zone X (shaded)* – Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the BASE FLOOD.
- G. *Zone C and Zone X (unshaded)* – Areas determined to be outside the 500-year floodplain.

Flood Insurance Study (FIS) – The official report in which the Federal Emergency Management Agency or the US Department of Housing and Urban Development has provided flood profiles, FLOODWAY boundaries (sometimes shown on FLOOD HAZARD BOUNDARY AND FLOODWAY MAPS), and the water surface elevations of the BASE FLOOD.

Floodplain – SPECIAL FLOOD HAZARD AREAS that are subject to periodic inundation. CONSTRUCTION and DEVELOPMENT within the Floodplain requires a Floodplain Development Permit.

Floodplain Overlay Map or Flood Hazard Boundary Map (FHBM) – Usually the initial map, produced by FEMA or the U.S. Department of Housing and Urban Development (HUD) for a community depicting approximate SPECIAL FLOOD HAZARD AREAS; the City's Floodplain Overlay District Map, as included in the UDO.

Flood Protection Elevation – The Flood Protection Elevation, or FPE, is the BASE FLOOD ELEVATION plus [x] feet of FREEBOARD. In areas where no BASE FLOOD ELEVATIONS exist from any authoritative source, the flood protection elevation can be historical flood elevations, or BASE FLOOD ELEVATIONS determined and/or approved by the Floodplain Administrator.

Floodway – A floodway is the channel of a river or other WATERCOURSE and the adjacent land areas that have been reserved in order to pass the BASE FLOOD discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the BASE FLOOD discharge is no more than a designated height. In no case shall the designated height be more than one foot (1') at any point within the community. The floodway is an extremely hazardous area, and is usually characterized by any of the following: moderate

to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

Floor Area, Gross – The sum of the horizontal areas of each floor of a BUILDING, measured from the exterior faces of the exterior walls or from the centerline of walls separating two BUILDINGS. The gross floor area measurement is exclusive of areas of unfinished BASEMENTS, unfinished cellars, unfinished attics, attached GARAGES, space used for off-street PARKING and loading, breezeways, PORCHES and DECKS, and ACCESSORY STRUCTURES. Unfinished basements, unfinished cellars, and unfinished attics shall be counted as storage space for purposes of determining required PARKING SPACES.

Floor Area, Seating Capacity – Floor area that is used or intended for use to serve patrons, clients or customers and all that area devoted to employee workspace. Such floor area as is used or intended to be used principally for the storage or merchandise, hallways, elevator or stair bulkheads or for utilities or sanitary facilities shall be excluded from the computation of floor area. Measurement of useable floor area shall be the horizontal areas of the several floors of the BUILDINGS, measured from the exterior faces to the exterior walls.

Food Related Retail – An establishment (excluding a BAR, RESTAURANT or FAST FOOD RESTURANT) whose principal business is the sale of food and/or beverages in a ready-to-consume state of consumption within the retail building, or off the premises as a carry-out order, and whose principal method of operation includes the following characteristics: food and/or beverages are usually sold in paper, plastic or other disposal containers. Examples of such uses include a Bakery, Butcher Shop, Candy Store, Coffee Shop, Delicatessen, Donut Store, Ice Cream Stand, Liquor Store and Pastry Store. A food related retail business shall not include drive-through facilities or any other facilities for eating or picking up food and/or beverages outside of the BUILDING, except upon approval of a DRIVE-THROUGH RETAIL CONDITIONAL USE by the PLANNING COMMISSION.

Food Service/Catering – Establishments that prepare, as their primary economic function, meals, snacks, and beverages for immediate consumption that are transported to an off-premises site or at banquet halls with catering staff. Examples of events catered by these establishments include weddings, trade shows, parties and luncheons.

Foster Family Home for the Physically and Mentally Disabled – A residential facility licensed under ORC 5123.19 that provides room and board, personal care, habilitation services, and supervision in a family setting for not more than five (5) individuals with mental retardation or a developmental disability.

Foster Home, Certified – A private residence certified under ORC 5103., in which children are received apart from their parents, guardian, or legal custodian by an individual reimbursed for providing the children non-secure care, supervision or training twenty-four (24) hours a day. "Foster home" does not include care provided for a child in the home of an individual other than the child's parent, guardian, or legal custodian while the parent, guardian or legal custodian is temporarily away.

Freeboard – A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and FLOODWAY conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a WATERSHED.

Front Lot Line – see LOT.

Front Yard – see YARD.

Game Court – A recreational facility designed to be used for court games, including tennis, racquetball, basketball and volleyball. "Game court" includes both indoor and outdoor facilities.

Garages and Sheds, Detached – A BUILDING or STRUCTURE, or part thereof, used or designed to be used for parking and storage (See also ACCESSORY USE/STRUCTURE and GARAGE, PRIVATE).

Garage, Parking – A space, STRUCTURE or series of structures for the temporary storage or parking of MOTOR VEHICLES, which is not primarily for COMMERCIAL VEHICLES or for dead storage of VEHICLES, and which has no public shop or service in connection therewith, other than for supplying motor fuels and lubricants, air, water and other operating commodities wholly within the BUILDINGS to the patrons of the garage only, which commodities are not readily visible from or advertised for sale on the exterior of the BUILDING.

Garage (Private) – An ACCESSORY STRUCTURE or portion of a MAIN BUILDING designed or used for the storage of motor-driven VEHICLES, boats and similar VEHICLES owned or used by the occupants of the BUILDING to which it is accessory.

Elementary School – A school or institution serving students between kindergarten through sixth grade (K - 6th).

Emergency – A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause SUBSTANTIAL DAMAGE to property, which calls for immediate action.

Engineer – A PERSON licensed by the State of Ohio and registered as a professional engineer under ORC 4733.

Environmental Sciences – These uses are permitted in the Office-Research Park District and include, but are not limited to, the following uses: laboratories engaged in testing and research, pharmaceutical laboratories, and bionomic laboratories. All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B, F-1 or F-2 of the Ohio Building Code.

EPA – The Ohio Environmental Protection Agency.

Equipment Shelter and/or Cabinet – The STRUCTURE in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.

Essential Services – The erection, CONSTRUCTION, ALTERATION or maintenance by public utilities or by governmental entities of underground, surface or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including TOWERS, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith (but not including BUILDINGS) that are necessary for the furnishing of adequate service by such utilities or governmental entities for the general health, safety or welfare.

Evergreen – Plant material that has foliage that remains green throughout the year.

Excavation – Any breaking of ground except common household gardening and ground care.

Executive Order 11988 (Floodplain Management): This order was issued by President Carter in 1977, and requires that no federally-assisted activities be conducted in, or have the potential to, affect identified SPECIAL FLOOD HAZARD AREAS unless there is no practicable alternative.

FAA – The Federal Aviation Administration, and any legally appointed, designated or elected agent or successor.

FCC – The Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

Family – One or more individuals occupying a single DWELLING UNIT, provided that unless all individuals are related by blood, marriage or adoption, no family shall contain over five (5) individuals but further provided that a family related by blood, marriage or adoption may have a total of two (2) non-related individuals living with it.

Family Home for the Physically and Mentally Disabled – A residential facility licensed under ORC 5123.19 that provides room and board, personal care, habilitation services and supervision in a family setting for at least six, but not more than eight individuals (6-8), with mental retardation or developmental disability.

Farm Market – The offering for sale of fresh agricultural products directly to the consumer in an open-air market.

Fast Food Restaurants – An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state of consumption within the restaurant building, within a MOTOR VEHICLE parked on the premises, or off the premises as a carry-out order, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposal containers. Examples of such uses include drive-through restaurants that prepare and/or dispense food or beverages and do not provide a place for all its customers to eat inside the BUILDING, or which serve food or beverages for carry out, or drive-in eating and drinking places, establishments where customers may serve themselves and may eat or drink the food or beverages on the premises, ~~and ice cream stands.~~

FEMA - Federal Emergency Management Agency.

Fill or Filling – Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the resulting GRADE conditions; the difference in elevation between a point on the original ground and a designated point of higher elevation on the final GRADE.

Final Plat – A final map of all or part of the SUBDIVISION prepared and certified by an ENGINEER or SURVEYOR in accordance with the requirements and regulations of this UDO, which is submitted to the CITY for final approval before recording at the office of the Warren County Recorder.

to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

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Food Service/Catering – Establishments that prepare, as their primary economic function, meals, snacks, and beverages for immediate consumption that are transported to an off-premises site or at banquet halls with catering staff. Examples of events catered by these establishments include weddings, trade shows, parties and luncheons.

Foster Family Home for the Physically and Mentally Disabled – A residential facility licensed under ORC 5123.19 that provides room and board, personal care, habilitation services, and supervision in a family setting for not more than five (5) individuals with mental retardation or a developmental disability.

Foster Home, Certified – A private residence certified under ORC 5103., in which children are received apart from their parents, guardian, or legal custodian by an individual reimbursed for providing the children non-secure care, supervision or training twenty-four (24) hours a day. "Foster home" does not include care provided for a child in the home of an individual other than the child's parent, guardian, or legal custodian while the parent, guardian or legal custodian is temporarily away.

Freeboard – A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and FLOODWAY conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a WATERSHED.

Front Lot Line – see LOT.

Front Yard – see YARD.

Game Court – A recreational facility designed to be used for court games, including tennis, racquetball, basketball and volleyball. "Game court" includes both indoor and outdoor facilities.

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Garage, Parking – A space, STRUCTURE or series of structures for the temporary storage or parking of MOTOR VEHICLES, which is not primarily for COMMERCIAL VEHICLES or for dead storage of VEHICLES, and which has no public shop or service in connection therewith, other than for supplying motor fuels and lubricants, air, water and other operating commodities wholly within the BUILDINGS to the patrons of the garage only, which commodities are not readily visible from or advertised for sale on the exterior of the BUILDING.

Garage (Private) – An ACCESSORY STRUCTURE or portion of a MAIN BUILDING designed or used for the storage of motor-driven VEHICLES, boats and similar VEHICLES owned or used by the occupants of the BUILDING to which it is accessory.

Garage, Service – Any premises used for the storage or care of motor-driven VEHICLES, or where any such VEHICLES are equipped for operation, repaired or kept for remuneration, hire or sale.

Gasoline Service Stations – An establishment or business with one or more fueling positions and of which the sale and storage of automotive fuel for NONCOMMERCIAL MOTOR VEHICLES is the principal activity.

Gasoline Service Stations/Convenience Stores – An establishment or business with one or more fueling positions, the business of which is the sale and storage of automotive fuel for NONCOMMERCIAL MOTOR VEHICLES is the principal activity, and which also offers for retail sale other related MOTOR VEHICLE products, household consumer merchandise, beverages, cigarettes, packaged foods, and/or the preparation and sales of delicatessen sandwiches, ice cream counters or other foods, and other related items. (See also CONVENIENCE STORE).

General Industry – An industrial establishment that provides, as its PRIMARY ACTIVITY, space for the assembly, manufacturing, processing or warehousing of goods or products, and which typically involve external impacts such as noise, dust, smoke, fumes, odors, heavy truck and/or rail traffic or other objectionable characteristics. Such use may have outdoor storage and/or operation space and comprises a part of use groups F-1, F-2, H-1, H-2, H-3, H-4 or H-5 of the Ohio Building Code. Examples of such uses include goods produced by factory assembly, paper mills, fabrication and assembly of metal products.

General Retail – A commercial establishment (excluding a RESTAURANT or MOTOR VEHICLE) that has, as its PRIMARY ACTIVITY, the sale of goods to the general public. Such use may include some outside display and/or storage space and comprises a part of use group M of the Ohio Building Code. Examples of such uses include garden shops, BUILDING supply stores and contractor showrooms.

Golf Course – A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with trees, greens, fairways and hazards. A golf course may include a clubhouse and shelters as ACCESSORY USES (See also RECREATION, COMMERCIAL).

Grade (ground level) – The average of the finished ground level at the center of all walls of a BUILDING. In case walls are parallel to and within five feet (5') of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined within this UDO.

Greenbelts – A strip or PARCEL of land, privately restricted or publicly dedicated as OPEN SPACE, located between a residential development and other incompatible uses, for the purpose of protecting and enhancing the residential environment (See also BUFFER).

Grocery Food and Beverage – Establishments that retail food and beverage merchandise from fixed point-of-sale locations and that have special equipment (e.g., freezers, refrigerated display cases and refrigerators) for displaying food and beverage goods. Such establishments have trained staff in the processing of food products to guarantee the proper storage and sanitary conditions required by regulatory authority.

Ground Satellite Station – Any ANTENNA or earth station designed, constructed or modified to bring in or receive satellite television signals.

Ground Sign – A PERMANENT SIGN supported by one or more poles, posts or braces permanently anchored or secured to the ground. Such SIGNS shall be flush with the base, which shall be brick or concrete, and shall not exceed four feet (4') in height from the ground to the top of the SIGN, as measured from the GRADE. PERMANENT RESIDENTIAL SUBDIVISION OR PLANNED UNIT DEVELOPMENT IDENTIFICATION SIGNS shall be ground signs.

Group Home – See ADULT FAMILY HOME (1-5 individuals); ADULT GROUP HOME (6-16 individuals); FAMILY HOME FOR THE PHYSICALLY AND MENTALLY DISABLED (6-8 individuals); FOSTER FAMILY HOME FOR THE PHYSICALLY AND MENTALLY DISABLED (1-5 individuals); and GROUP HOME FOR THE PHYSICALLY AND MENTALLY DISABLED (9-16 individuals).

Group Home for the Physically and Mentally Disabled – A residential facility licensed under ORC 5123.19 that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen (9-16) individuals with mental retardation or a developmental disability.

Half-Street – A Street having a lesser RIGHT-OF-WAY width than required for a STREET of full width.

Hard Surface – A bituminous surface, Portland cement concrete, brick pavers or other surface as approved by the CITY ENGINEER. "Hard Surface" does not include gravel.

Health and Personal Care Services – A business whose PRIMARY ACTIVITY is the provision of services to the public or its members for the provision of personal care services or health maintenance services, and may include the sale of goods as a secondary activity. Examples of such uses include spas, salons, exercise facilities, and weight management centers.

Health Care and Human Services – A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human health needs including, but not limited to, diagnostic centers, treatment centers, physical therapy centers, extended care centers, intermediate care facilities, outpatient services or central service facilities serving one or more institutions, but does not include ALCOHOL AND DRUG ADDICTION TREATMENT FACILITIES.

Health Commissioner – The Warren County Commissioner of Health or his authorized representative.

Height, or Above Ground Level (AGL) – When referring to a TOWER or other STRUCTURE, the distance measured from the finished GRADE at the base of the TOWER or STRUCTURE to the highest point on the TOWER or other STRUCTURE, including the base pad and any ANTENNA.

Historic Structure – Any STRUCTURE that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or
- D. Individually listed on the inventory of historic places maintained by the CITY'S historic preservation program, which program is certified by the Ohio Historic Preservation Office.

Home Occupation Type-A/Family Home Occupation – A Home Occupation Type-A shall be considered an ACCESSORY USE not requiring a CONDITIONAL USE Permit (See Section 1113.03 of this UDO).

Home Occupation Type-B/Retail Home Occupation – A Home Occupation Type-B requires a CONDITIONAL USE Permit (See Section 1113.03 of this UDO).

Homeowners' Association – A private, nonprofit corporation of homeowners established by a DEVELOPER or group of DEVELOPERS, with local government approval, whose purpose is to own, operate and maintain various common properties, including, but not limited to, COMMON OPEN SPACE, private streets and recreation facilities. The association/corporation holds title to common property.

Hospital or Sanitarium – An establishment for the medical, surgical or psychiatric care of bed patients for a continuous period longer than twenty-four (24) hours, which is open to the general public twenty-four (24) hours each day for emergency care, has a minimum of ten (10) patient beds, an average of two thousand (2,000) patient days per annum, and has on duty a registered nurse twenty-four (24) hours each day.

Hotel/Motel – A BUILDING occupied as the more-or-less temporary abiding place of individuals who are lodged with or without meals in which there are ten (10) or more sleeping rooms and no provision made for cooking in any individual room or apartment. A hotel may include RESTAURANTS or cocktail lounges, public banquet halls, ballrooms or meeting rooms.

Hydrologic and Hydraulic Engineering Analysis – An analysis performed by an professional ENGINEER, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or FLOODWAY boundaries.

Identification Sign – A SIGN, other than a NAMEPLATE SIGN, indicating the identity or name, whether through logo, type, graphics or other symbols, address and activity occupying the BUILDING, store, service or establishment.

Illuminated Sign – A SIGN that has characters, letters, figures, designs or an outline illuminated by electric lights or luminous tubes as a part of the sign proper, or that is illuminated by the reflector method.

In-Law Suites – A secondary DWELLING UNIT established in conjunction with, and clearly subordinate to, a primary DWELLING UNIT, which is only occupied by a member(s) of the FAMILY of the dwelling's owner(s), who is related to the owner(s) by blood, marriage or adoption.

Incorporated Territory – Land included within the boundaries of the CITY.

Industry – See GENERAL INDUSTRY and LIGHT INDUSTRY.

Information Technology – These uses are permitted in the Office-Research Park District and include, but are not limited to, the following uses: telecommunications, data processing and computing centers, computer electronic parts, equipment and electronics manufacturing, computer programming and software development, and internet-related businesses. All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B, F-1 or F-2 of the Ohio Building Code.

Informational Sign – A SIGN conveying a message relative to a danger or hazard existing on the property, or indicating a condition on the property that requires the exercise of ordinary due care, or providing public safety information, or other public information.

Informational Window Sign – Window signage with a total area of four square feet (4 sq. ft.) or less and bearing only information about entry and exit, business hours, authorized service representative information and/or discount and credit systems accepted in that establishment.

Interior Lot – see LOT.

Joint Identification Sign – A SIGN intended to provide the identity or name, whether through logo, type, graphics or other symbols, for two (2) or more uses within one BUILDING or on one property or the name of the BUILDING or its address for property occupied by two (2) or more businesses.

Junior High School – A school/institution serving students between seventh and eighth grade, or between seventh and ninth grade.

Junk - Old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash waste, iron, steel and other old or scrap ferrous or nonferrous materials.

Junkyard - An establishment or place of business, other than an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes, which is maintained or operated for the purpose of storing, keeping, buying or selling junk, and includes garbage dumps and sanitary landfills. The term "junk yard" shall also include scrap metal processing facilities which are located within 1,000 feet of the nearest edge of the right-of-way of a highway in the interstate or primary system.

Kennels – Any premises where domestic animals, such as dogs and cats, are boarded, trained or bred.

Landfill – The burial of non-hazardous and non-medical farm, residential, institutional, commercial or industrial waste.

Landing Field – A specific area designated for the take-off and landing of aircraft.

Landscaping – The use of natural plant materials including, but not limited to, groundcovers, shrubs, and trees (DECIDUOUS and EVERGREEN). Landscaping also involves the placement, preservation and maintenance of said plant materials and includes such elements as fences, walls, lighting and earth mounding.

Large-Format Retail – A business that exceeds fifty thousand gross square feet (50,000 sq. ft.), excluding outside sales or storage, restrooms and other non-public areas.

Letter of Map Change (LOMC) – A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective FLOOD INSURANCE RATE MAPS, FLOOD HAZARD BOUNDARY AND FLOODWAY MAPS, and FLOOD INSURANCE STUDIES. LOMC's are broken down into the following categories:

- A. *Letter of Map Amendment (LOMA)*: A revision based on technical data showing that a property was incorrectly included in a designated SPECIAL FLOOD HAZARD AREA. A LOMA amends the current effective FLOOD INSURANCE RATE MAP and establishes that a specific property is not located in a SPECIAL FLOOD HAZARD AREA.
- B. *Letter of Map Revision (LOMR)*: A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and FLOODWAY delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a STRUCTURE or PARCEL has been elevated by FILL above the BASE FLOOD ELEVATION and is, therefore, excluded from a SPECIAL FLOOD HAZARD AREA.
- C. *Conditional Letter of Map Revision (CLOMR)*: A formal review and comment by FEMA as to whether a proposed project complies with the minimum NATIONAL FLOOD INSURANCE PROGRAM floodplain management criteria. A CLOMR does not amend or revise effective FLOOD INSURANCE RATE MAPS, FLOOD HAZARD BOUNDARY AND FLOODWAY MAPS, or FLOOD INSURANCE STUDIES.

Life Sciences – These uses are permitted in the Office-Research Park District and include, but are not limited to, the following uses: biotechnology, biopharmaceutical, biomedical, pharmaceuticals, and/or laboratories engaged in testing and research, and the manufacture of medical instruments, appliances,

apparatus or filters. All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B, F-1 or F-2 of the Ohio Building Code.

Light Industry – A commercial or industrial establishment that provides, as its PRIMARY ACTIVITY, space for the assembling or processing of goods for sale, or service industries, that do not produce any noise, dust, odor, fumes, vapors, smoke, vibrations, glare, heat, noise, odor, heavy truck or rail traffic, or other objectionable effects on the outside of the BUILDING. All operations are carried on in a completely enclosed BUILDING and comprise a part of use group F-1 or F-2 of the Ohio Building Code. Examples of such uses include food processing, beverage bottling, upholstering, carpets and rugs, business machines, dry cleaning and dyeing, and construction machinery.

Live Viewing Booth – Any private or semi-private booth, or any viewing room of less than one hundred fifty square feet (150 sq. ft.) of floor space, to which the public may gain admittance, wherein a live performance is presented to five (5) or fewer individuals at any one time.

Loading Space – An off-street space on the same LOT with a BUILDING or group of BUILDINGS for the temporary parking of a COMMERCIAL VEHICLE while loading and unloading merchandise or materials.

Lot – The basic development unit; A PARCEL of land with fixed boundaries occupied, or to be occupied by, a MAIN BUILDING, or a group of such BUILDINGS and ACCESSORY STRUCTURES, or used for the principal use and uses accessory thereto, together with such OPEN SPACES as are required under the provisions of this UDO. Every lot shall abut upon and have permanent access to a public STREET and have a minimum frontage of forty feet thereon.

- A. *Corner Lot*: A lot that has at least two (2) contiguous sides abutting upon a STREET for its full length.
- B. *Interior Lot*: A lot other than a corner or through lot.
- C. *Through Lot*: Any lot having frontage on two or more STREETS, as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to STREETS shall be considered frontage, and FRONT YARDS shall be provided as required.

Lot Area – The total horizontal area within the LOT LINES of a LOT.

Lot Coverage – The part or percent of a LOT occupied by BUILDINGS, including ACCESSORY STRUCTURES.

Lot Depth – A distance measured in the mean direction of the SIDE LOT LINES from the mid-point of the FRONT LOT LINE to the mid-point of the REAR LOT LINE.

Lot Line – The lines bounding a LOT or, in some instances, the RIGHT-OF-WAY line or public EASEMENT line on a LOT.

Lot Line, Front – The line separating a LOT from the STREET. In the case of a CORNER LOT or double frontage lot, the FRONT LOT LINE means the line separating such LOT from both STREETS.

Lot Line, Rear – The LOT LINE opposite the FRONT LOT LINE. In the case of a LOT pointed at the rear, the rear lot line shall be an imaginary line parallel to the FRONT LOT LINE, not less than ten feet (10') long, lying farthest from the FRONT LOT LINE and wholly within the LOT. In the case of a CORNER LOT, the rear lot line is opposite the FRONT LOT LINE of least dimension.

Lot Line, Side – Any LOT LINE other than the FRONT LOT LINE or REAR LOT LINE. A side lot line separating a LOT from a STREET is a street lot line. A side lot line separating a LOT from another LOT or lots is an interior side lot line.

Lot of Record – A PARCEL of land, the dimensions of which are shown on a document or map on file with the Warren County Recorder's Office or in common use by CITY or Warren County officials, and which actually exists as so shown, or any part of such PARCEL held in a record ownership separate from that of the remainder thereof.

Lot Width – The horizontal distance between the SIDE LOT LINES, measured at the two points where the BUILDING LINE or SETBACK line intersects the SIDE LOT LINES.

Lowest Floor – The lowest floor of the lowest enclosed area (including BASEMENT) of a STRUCTURE. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of VEHICLES, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Main Building – A BUILDING in which is conducted the principal use of the LOT upon which it is situated.

Main Use – The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major Subdivision –

- A. The division of any PARCEL of land shown as a unit or as contiguous units on the last preceding tax roll, into three (3) or more LOTS, sites or PARCELS, any one of which is less than five (5) acres for the purpose, whether immediate or future, of transfer of ownership; or the division of any PARCEL of land into two (2) or more LOTS, sites or PARCELS of any size that involves the creation of any new STREETS, public RIGHT-OF-WAYS or EASEMENTS of access; provided, however, that the division or partition of land into PARCELS of more than five (5) acres not involving any new STREETS, public RIGHT-OF-WAYS or EASEMENTS of access, and the sale or exchange of PARCELS between adjoining lot owners, where such sale does not create additional building sites, shall be exempt from the platting procedures of this UDO but shall not be exempt from the improvement, DEVELOPMENT or redevelopment standards of this UDO.
- B. The improvement of one or more PARCELS of land for residential, commercial or industrial STRUCTURES or groups of structures involving the division or allocation of land for the opening, widening or extension of any STREET or streets, except private streets serving industrial structures; and/or the division or allocation of land as COMMON OPEN SPACE for common use by owners, occupants or lease holders or as EASEMENTS for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
(See also MINOR SUBDIVISION; SUBDIVISION, MAJOR; and SUBDIVISION, MINOR).

Major Tree – A living tree with a trunk diameter of at least fifteen inches (15”), measured two feet (2’) above ground level.

Manufactured Home – A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the *Manufactured Housing Construction and Safety Standards Act of 1974*, 88 Stat. 700, 42 USCA 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 USCA 5415, certifying compliance with all applicable federal construction and safety standards.

Manufactured or Mobile Home Park – As specified in the Ohio Administrative Code 4781-12-01, a manufactured or mobile home park means any tract of land upon which three or more MANUFACTURED HOMES or MOBILE HOMES, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, BUILDING, STRUCTURE, VEHICLE, or enclosure used or intended for use as part of the facilities of the park. Manufactured Home Parks and Mobile Home Parks are not permitted under this UDO.

Marquee – A permanent roofed STRUCTURE attached to and supported by the BUILDING and projecting beyond the BUILDING LINE or over public property.

Marquee Sign – A SIGN attached to or constructed in a MARQUEE (See also CANOPY SIGN).

Material Sciences – These uses are permitted in the Office-Research Park District and include, but are not limited to, the following uses: plastics/polymer research and engineering, laser technology and application, robotic research, and the manufacturing, processing and/or packaging of medical, optical, scientific, electronic or electromagnetic devices, equipment, systems or supplies. All operations are carried on in a completely enclosed BUILDING and comprise a part of the use group B, F-1 or F-2 of the Ohio Building Code.

Memorial Sign – A SIGN designed, intended or used to preserve the memory of a PERSON, place or event, including landmark plaques and historical plaques.

Medical Center/Clinic – A commercial or noncommercial establishment that provides, as its PRIMARY ACTIVITY, health-related services to the general public on an outpatient basis. Such use shall not provide space for overnight treatment and may be set up with emergency vehicle receiving areas and trauma treatment facilities. Such use comprises a part of use group B of the Ohio Building Code. Examples of such uses include clinics and emergency clinics.

Medical and Health-Related Office – A commercial or noncommercial establishment that provides, as its PRIMARY ACTIVITY, health-related services to the general public on an outpatient basis. Such use shall not provide space for overnight treatment and comprises a part of use group B of the Ohio Building Code. Examples of such uses include doctors’ offices and dentists’ offices.

Menu Board – A permanently mounted SIGN displaying the bill of fare for a RESTAURANT, FAST FOOD RESTAURANT or instructions or services for other drive-thru or drive-in establishments.

Microcell – The lines that connect a provider's TOWERS/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Mining and Extraction – All or any part of the process involved in the mining of minerals and raw materials by removing overburden and mining directly from the deposits, open-pit mining or minerals naturally exposed, mining by auger method, dredging and quarrying, or underground mining and surface work incidental to an underground mine. Such uses are not permitted in the CITY under this UDO.

Minor Subdivision – The division of any PARCEL of land shown as a unit or as contiguous units on the last preceding tax roll along an existing and improved public STREET, into not more than two (2) LOTS or PARCELS, any one of which is less than five (5) acres; or the division of any PARCEL of land into two (2) or more LOTS of more than five (5) acres not involving any new STREETS, public RIGHT-OF-WAYS or EASEMENTS of access; or the sale or exchange of PARCELS between adjoining lot owners, where such sale does not create additional building sites; or the combination or replatting of two (2) or more LOTS or PARCELS into a single LOT when such LOTS or PARCELS are under the ownership of the same owner and the combination or replatting does not involve any new STREETS, public RIGHT-OF-WAYS or EASEMENTS of access (See also MAJOR SUBDIVISION; SUBDIVISION, MAJOR; SUBDIVISION, MINOR).

Mobile Home – means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet (35') in length or, when erected on site, is three hundred twenty or more square feet (320 sq. ft.), is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home or as an industrialized unit as defined in ORC 3781.06(C).

Monopole – A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Monument Sign – A PERMANENT SIGN supported by one or more poles, posts or braces permanently anchored or secured to the ground. Such signs shall be flush with the base, which shall be brick or concrete, and shall not exceed six feet (6') in height from the ground to the top of the sign. Such signs shall be measured from the GRADE, not any mounding.

Mortgage Loan Lender – Any business that is licensed, or is required to be licensed, under ORC 1321.51 to 1321.60 to make mortgage loans. Mortgage loan lender does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Mortuaries – An establishment providing services such as preparing the human dead for burial and/or cremation and arranging and managing funerals, hospitality and reception areas in connection therewith and which may include limited caretaker facilities. This definition includes crematoriums and columbariums.

Motor Vehicle – Any VEHICLE, including mobile homes and RECREATIONAL VEHICLES, which is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. Motor vehicle does not include motorized bicycles, equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at the speed of twenty-five miles per hour (25 mph) or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten (10) miles and at a speed of twenty-five miles per hour (25 mph) or less (See also VEHICLE).

Motor Vehicle, Collector's – Any MOTOR VEHICLE or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation, and that displays current, valid license tags issued under ORC 4503.45, or a similar type of MOTOR VEHICLE that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

Motor Vehicle, Commercial – Any MOTOR VEHICLE that has motor power and is designed and used for carrying freight or merchandise, or that is used as a commercial tractor, as that term is defined by ORC 4501.01.

Motor Vehicle, Noncommercial - Any MOTOR VEHICLE, including a farm truck as defined by ORC 4503.04, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

Motor Vehicle-Oriented Business - Any commercial business that by design, type of operation, or nature of business has one of its functions as the provision of services to a number of MOTOR VEHICLES or their occupants in a short time span, or the provision of services to the occupants of MOTOR VEHICLES while they remain in the VEHICLES. Such uses may include the retail sale of lubricants and MOTOR VEHICLE accessories, and the provision of routine maintenance and/or service of MOTOR VEHICLES. Repairs, such as those described in VEHICLE REPAIR SERVICE shall not be permitted.

Movie Theater - A STRUCTURE used for dramatic, operatic, motion pictures or other performances, for which admission to is a paid service and concession services only are provided (See also COMMERCIAL ENTERTAINMENT).

Moving Sign - Any SIGN, all or any part of which physically moves up or down or sideways, revolves, or is animated so as to give the appearance of movement.

Multi-Use Tower - A self-supporting lattice, guyed or MONOPOLE structure, constructed from GRADE that supports more than one Wireless Telecommunications Facility.

Nameplate Sign - A SIGN indicating the name, address and profession of the individual or individuals residing on the premises, or legally occupying the premises, or indicating a HOME OCCUPATION legally existing on the premises in a residential ZONING DISTRICT.

National Flood Insurance Program (NFIP) - The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from FLOODING. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to BUILDINGS and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all DEVELOPMENT in SPECIAL FLOOD HAZARD AREAS, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

New Construction - STRUCTURES for which the START OF CONSTRUCTION commenced on or after the initial effective date of the *City of Franklin Flood Insurance Rate Map*, effective as November 5, 1980, and any subsequent amendments thereto, and includes any subsequent improvements to such STRUCTURES.

Nonconforming Building - A BUILDING, or portion thereof, lawfully existing on the effective date of this UDO, or amendments thereto, and that does not conform to the lot, dimensional, height, YARD, are or lot coverage regulations of the DISTRICT in which it is located.

Non-Routine Maintenance - Activities necessary not more frequently than every twenty-four (24) months to keep STRUCTURES and equipment in good repair.

Non-Structural Controls - Stormwater runoff control and treatment techniques that use natural measures to control runoff and/or reduce pollution levels, and do not require extensive CONSTRUCTION efforts and/or do promote runoff control and/or pollutant reduction by eliminating the runoff and/or pollutant source. Examples include minimizing impervious area, buffer strips along streams, and preserving natural vegetation.

Nude or Semi-Nude Modeling Studio - Any place where a individual who appears SEMI-NUDE or who displays SPECIFIED ANATOMICAL AREAS is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:

- A. A proprietary school licensed by the State of Ohio, or a COLLEGE, junior college or university supported entirely or in part by public taxation;
- B. A private COLLEGE or university that offers educational programs in which credits are transferable to a COLLEGE, junior college, or university supported entirely or partly by taxation; or
- C. An establishment holding classes in a STRUCTURE that has no SIGN visible from the exterior of the STRUCTURE and no other advertising that indicates a SEMI-NUDE person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one SEMI-NUDE model is on the premises at any one time.

Nudity, State of Nudity or Nude – Exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque COVERING; exposing to view any portion of the areola of the female breast with less than a fully opaque COVERING; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque COVERING; or exposing to view any device, costume, or COVERING that gives the appearance of or simulates any of these anatomical areas.

Nursing Home – See SKILLED NURSING FACILITY. A HOSPITAL shall not be construed to be a nursing home.

ODOT – The Ohio Department of Transportation.

Office/Administrative Space – Space provided in a BUILDING designed, intended or used primarily for office functions.

Ohio Building Code (OBC) – Wherever the term “Ohio Building Code” or “Building Code” appears in this UDO, it shall mean the Ohio Building Code, for commercial and industrial uses, or Residential Code of Ohio, for residential uses, as determined applicable by the ZONING OFFICIAL.

Opacity – The degree to which a STRUCTURE, use or view is screened from ADJACENT PROPERTIES.

Open Space – An area substantially open to the sky, which may be on the same LOT with a BUILDING. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts or any other recreational facilities; STREETS, STRUCTURES and the like shall not be included.

ORC – Ohio Revised Code, including any subsequent amendments thereto.

Overlay District – A district described on the CITY’S ZONING MAP within which, through superimposition of a special designation, certain regulations and requirements apply, in addition to those of the underlying ZONING DISTRICT.

Parcel – A LOT, or contiguous group of LOTS in single ownership or under single control, and usually considered a unit for the purposes of development.

Park – Any public or private land available for recreational, educational, cultural or aesthetic use.

Parking (Area) – Any part of a site used by VEHICLES not totally enclosed within a STRUCTURE. This includes PARKING SPACE and aisles, drives, loading areas and VEHICLE storage areas, driveways and permitted off-street PARKING SPACES for single- and two-family residential uses.

Parking Space – An off-street space, either within a STRUCTURE or in the open, available for the parking of one MOTOR VEHICLE and having an area of not less than one hundred seventy square feet (170 sq. ft.), exclusive of passageways, driveways and maneuvering space.

Parkland – A tract of land designated and used by the public for active or passive recreation.

Passive Space – OPEN SPACE provided in a PARK or other development that does not contain any active recreational equipment, GAME COURTS or playing fields. Passive space may include benches, picnic areas and tot lots.

Peak Rate of Runoff – The maximum rate of runoff for any twenty-four (24) hour storm of a given frequency.

Pennant – A triangular shaped BANNER.

Permanent Residential Subdivision or Planned Unit Development Identification Signage – Those signage features specifically relating to the denotation of a major entrance or entrances to a residential SUBDIVISION (See also GROUND SIGN).

Permanent Sign – A SIGN designed or intended to be used indefinitely, or used indefinitely without change in the same state or place, and includes BUSINESS SIGNS, CANOPY/MARQUEE SIGNS, CHANGEABLE COPY SIGNS, DIRECTIONAL SIGNS, GROUND SIGNS, ILLUMINATED SIGNS, IDENTIFICATION SIGNS, MEMORIAL SIGNS, MONUMENT SIGNS, PROJECTING NAMEPLATE SIGNS, SHINGLE SIGNS, WALL SIGNS and certain WINDOW SIGNS.

Person – Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for-profit, including State and local governments and agencies. An agency is further defined as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, State COLLEGE or university, community COLLEGE district, technical COLLEGE district, or State community COLLEGE. Agency does not include the Ohio General Assembly, the State Controlling Board, the Adjutant General’s Department or any court (ORC 111.15).

Personal Service – A commercial establishment that provides, as its PRIMARY ACTIVITY, a service either to an individual or to an individual’s personal property (excluding MOTOR VEHICLES, boats

or other VEHICLES). Such use shall be completely contained within a BUILDING and comprises a part of use group B of the Ohio Building Code. Examples of such uses include shoe repair shops, watch repair shops, banks, and savings and loan institutions.

Planning Commission – The administrative board and quasi-judicial board, appointed in accordance with the City Charter, which hears and decides CONDITIONAL USE applications, makes recommendations to COUNCIL on all legislative zoning matters, and reviews planning-related issues, all as outlined in this UDO.

Plat – A SUBDIVISION of land legally approved and recorded.

Playground – A private or publicly owned area for recreational use primarily by children.

Pole Sign – A SIGN supported by one or more poles, posts or braces permanently mounted on or in the ground that exceeds six feet (6') in height. Pole signs are not permitted under this UDO, except when approved in the Highway Sign Overlay District.

Political Sign – A SIGN that advocates for or against the election of a candidate, recall or retention of an officeholder, passage or defeat of a ballot measure, or that solicits signatures for initiative, referendum or recall petitions.

Potable Water – Water that is satisfactory for drinking, culinary and domestic purposes meeting current drinking water standards.

Porch – An unheated, open-air platform, enclosed with a roof that is either:

- A. Freestanding and directly adjacent to a principal BUILDING; or
- B. Attached to the BUILDING, that has railings or walls on the sides not exceeding thirty-eight inches (38") in height from the platform.

The area between the roof and the railings or walls may be covered with screening or netting material only, and cannot be enclosed with windows or detachable glass sash.

Portable Shed – A shed that is not anchored to the ground, or does not have a permanent base, and that is capable of being moved around the property as a single unit.

Pre-Development Conditions – Site conditions, as they existed prior to manmade alterations and/or earth disturbing activities.

Pre-existing Towers and Pre-existing Antennas – Any TOWER or ANTENNA for which a building permit or special use permit has been properly issued prior to the effective date of this UDO, including permitted TOWERS or ANTENNAS that have not yet been constructed, so long as such approval is current and not expired.

Preliminary Plat – A preliminary map showing the proposed layout of a SUBDIVISION in sufficient detail to allow review by the PLANNING COMMISSION.

Primary Activity – An activity that comprises more than fifty percent (50%) of the total FLOOR AREA of a BUILDING.

Private Recreational Facilities and Private Park and Event Center – Any private land at least twenty (20) contiguous acres in size available and developed for educational purposes through recreational, spiritual, cultural and/or aesthetic uses, which use(s) are privately owned and privately operated with or without the intention of earning a profit in furtherance of such use. A combination of related uses may be incorporated, such as temporary and permanent lodging, indoor and outdoor recreation, camp offices, gymnasiums, auditoriums, cafeterias and additional similar uses and ancillary uses related thereto. Private Recreational Facilities, and Private Park and Event Center may, but is not required, to have a Parkland. Campgrounds are prohibited under this UDO, however a temporary site for tents or similar non-permanent shelters for outdoor lodging shall be a permitted ancillary use.

Private Stable – A STRUCTURE used, designed or constructed for the keeping of animals, particularly horses, for the private use and enjoyment of the owner of the property. Such uses are not commercial enterprises and shall not be greater than thirteen thousand square feet (13,000 sq. ft.) in size.

Private Swimming Pools – A swimming pool exclusively used, without paying an additional charge for admission, by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a HOTEL/MOTEL; an ACCESSORY USE.

Private Traffic and On-Site Directional Signs – A TEMPORARY SIGN or PERMANENT SIGN that provides information regarding location, instructions for use, or functional/directional data.

Professional and Business Office – A commercial establishment that provides, as its PRIMARY ACTIVITY, space for any professional and/or business operation where the product is a person's knowledge or skill and not a commodity. Such use shall be completely contained within a BUILDING. "Professional and business office" does not include health-related services, and such use

comprises a part of use group B of the Ohio Building Code. Examples of such uses include, but are not limited to, law offices, real estate offices and corporate headquarters.

Projecting Nameplate Sign – A SIGN indicating only the name and/or address of a business or occupant(s) that extends outward, perpendicular to the BUILDING face, not more than four feet (4') beyond the BUILDING and not less than eight feet (8') above the sidewalk or ground level.

Property Line – A legally recorded boundary of a LOT, tract or other PARCEL of land.

Protected Public Water Supply – A public water system which services at least fifteen (15) service connections used by year-round residents, or regularly serves at least twenty-five (25) year round residents, and having a five (5) year capture area defined through appropriate hydrologic studies.

Public Recreation – see RECREATION, PUBLIC.

Public Utility – Any PERSON, firm or corporation, municipal department or board of commission duly authorized to furnish to the public, under State or Municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, telephone, transportation or water service.

Real Estate Sign – A SIGN announcing the sale, rental or lease of the LOT where the sign is displayed, or announcing the sale, rental or lease of one or more STRUCTURES, or a portion thereof, located on such LOT, and indicating the owner, realty agent, telephone number or “open house” information.

Real Property Services - An establishment that provides, as its PRIMARY ACTIVITY, off-site services to the real property of individuals or corporations and which may include limited, on-site retail sales. Such uses comprise a part of use group B of the Ohio Building Code. Examples of such uses include companies that perform CONSTRUCTION, LANDSCAPING, concrete and/or asphalt work.

Rear Lot Line – see LOT LINE, REAR.

Rear Yard - see YARD.

Recreation, Commercial – A commercial establishment that provides, as its PRIMARY ACTIVITY, outdoor space for various types of sporting and/or leisure activities, though a portion of the activities may be carried on within an enclosed BUILDING. Such uses include, but are not limited to, golf courses, go-cart racing, putt-putt golf, paint ball facilities, wedding and banquet facilities and driving ranges that are privately owned and operated with the intention or earning a profit by providing entertainment or entertainment space for the public.

Recreation, Public – Includes all uses that are commonly provided for the public at PARKS, PLAYGROUNDS, COMMUNITY CENTERS, and other sites owned and operated by a unit of government for the purpose of providing recreation.

Recreational Vehicle – A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet (400 sq. ft.) or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent DWELLING but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling Center - A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware and metal cans are collected, stored, flattened, crushed, and/or bundled.

Recycling Plant - A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books and other paper products, glassware, metal cans, and other products are recycled, reprocessed, and treated to return such products to a condition in which they may be used for production.

Regulated Substances – Chemicals and mixtures of chemicals that are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not Regulated Substances. Regulated Substances include:

- A. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.
- B. Mixtures of chemicals that have been tested as a whole and have been determined to be a health hazard.
- C. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one percent (1.0%) or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one percent (0.1%) or greater of the composition on a weight per unit weight basis.

- D. Ingredients of mixtures prepared within the Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one percent (0.1%) of the mixture on a weight per unit weight basis if carcinogenic, or less than one percent (1.0%) of the mixture on a weight per unit weight basis if non-carcinogenic.

- E. Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

Rental Room – A part of a DWELLING UNIT used as a lodging facility by someone not in the FAMILY housekeeping unit. Such rooms may or may not have separate entrances and do not have separate cooking facilities. Such uses are prohibited under this UDO.

Replacement Cost – The cost of replacing a STRUCTURE or BUILDING at current costs at the time of the loss, identical to the one that was destroyed, without application of depreciation.

Research and Development Facility – A commercial establishment that provides, as its PRIMARY ACTIVITY, space for the development of information and/or products that are used by business and industry. Such use shall be completely contained in a BUILDING, does not produce goods or services for direct retail sale and comprises a part of use groups B or F-2 of the Ohio Building Code. Examples of such uses include, but are not limited to, biological testing labs, corporate research and development facilities.

Residential Area – The DISTRICTS outlined for residential development under this UDO.

Residential Treatment Facility – A residential facility that provides residential services to more than nine (9) individuals who are mentally retarded, developmentally disabled or physically handicapped, and who cannot otherwise care for themselves or are convalescing or undergoing rehabilitation and/or treatment. Such individuals are provided services to meet their individual needs, and they must not have been previously convicted of a felony or require institutional care or treatment. A residential treatment facility shall be licensed by and/or has accountability to a governmental agency for the clientele served. It does not include HOSPITALS or facilities that administer treatment as their primary function to in-patients, outpatients or on a daycare basis.

Restaurant – A commercial establishment that provides, as its PRIMARY ACTIVITY, prepared food for consumption on the premises inside of a BUILDING. A restaurant shall not include drive-through facilities or any other facilities for eating or picking up food outside of the BUILDING, except upon approval of a DRIVE-THROUGH RETAIL CONDITIONAL USE by the PLANNING COMMISSION. A restaurant comprises a part of use group A-2 of the Ohio Building Code (See also FAST FOOD RESTAURANTS).

Retail - See BUSINESS RETAIL, CONSUMER RETAIL, DRIVE-THROUGH RETAIL, FOOD RELATED RETAIL, GENERAL RETAIL, LARGE-FORMAT RETAIL.

Revolving Sign – A SIGN that revolves three hundred sixty degrees (360°) but does not exceed eight (8) revolutions per minute.

Right-of-way – A strip of land dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

Riparian – Of, on, or relating to, the bank of a natural course of water.

Riparian Buffer – Riparian buffers are the areas of vegetation directly separating land from water and immediately adjacent land that is frequently inundated (the floodways of streams). Vegetation in riparian buffers typically consists of plants that either are emergent aquatic plants, or herbs, trees and shrubs that thrive in close proximity to water.

Roof Line – The lowest point of a roof that is closest to the ground.

Roof Sign – A SIGN erected upon or above a roof or parapet wall of a BUILDING, which sign is wholly or partially supported by such BUILDING. Roof signs are prohibited under this UDO.

Salvage Material – Clean packing materials such as, but not limited to, cardboard boxes and paper, newspaper, plastic, rags, tires, scrap iron and other metals, glass, and similar materials, motor vehicles or parts thereof, used lumber, household garbage, inoperable machinery or appliances, and similar materials, which can be rejuvenated or returned for reconstitution.

Salvage/Scrap Yard – A facility, but not including a junkyard, recycling center, recycling plant, or scrap metal processing facility licensed under authority of ORC 4737.05 to 4737.12 or regulated under authority of the City, as defined by Section 713.01 of the City of Franklin Codified Ordinances, and not including motor vehicle salvage as defined by Section 715.01 of the City of Franklin Codified Ordinances, where SALVAGE MATERIALS are bought, sold, exchanged, collected, salvaged, stored, baled, packed, disassembled, or handled.

Satellite Parking – PARKING SPACES located off-site of the BUILDING that it is designed to serve.

Scrap Metal Processing Facility - An establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes.

Secondhand Dealer – Any PERSON, partnership, corporation or other entity that engages in the purchase, sale, receiving or exchange of secondhand articles or precious metals, as the same are defined in Chapter 723 of the Codified Ordinances.

Security Sign – A SIGN indicating that the property is protected by a security surveillance system of any nature.

Sediment Basin – A barrier, dam or other facility built to reduce the velocity of water in order to settle and retain sediment.

Self-Service Storage Facility or Mini-Warehouse – A facility consisting of a BUILDING or group of BUILDINGS, usually in a controlled-access compound, that may contain varying sizes of individual, self-contained, enclosed, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares, that are owned, leased or rented.

Semi-Nudity, State of Semi-Nudity, Semi-Nude Condition or Semi-Nude – Exposing to view, with less than a fully opaque COVERING, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

Senior High School – A school/institution serving students between ninth grade and twelfth grade (9-12), or between tenth grade and twelfth grade (10-12).

Setback or Setback Line – The minimum distance that a BUILDING may be constructed from a LOT LINE.

Sex Store – A business offering goods for sale or rent and that meet any of the following tests:

- A. More than ten percent (10%) of the STOCK-IN TRADE OR INVENTORY, or more than ten percent (10%) of the gross public FLOOR AREA of the business, consists of SEXUALLY-ORIENTED NOVELTIES OR TOYS; or
- B. It offers for sale items from any two (2) of the following categories: ADULT ENTERTAINMENT, ADULT MEDIA, SEXUALLY-ORIENTED NOVELTIES OR TOYS, lingerie, or apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than fifteen percent (15%) of the STOCK-IN-TRADE OR INVENTORY of the business or occupies more than fifteen percent (15%) of the gross public FLOOR AREA; or
- C. Which advertises or holds itself out in any forum as a SEXUALLY-ORIENTED BUSINESS by use of such terms as "sex toys," "marital aids," "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a SEXUALLY-ORIENTED BUSINESS.
- D. Sex Store shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to individuals employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.

Sexual Encounter Establishment – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is NUDE or SEMI-NUDE; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is NUDE or SEMI-NUDE; or
- C. A place where two (2) or more persons may congregate, associate or consort for the purpose of engaging in SPECIFIED SEXUAL ACTIVITIES; or
- D. A place where two (2) or more persons appear NUDE or SEMI-NUDE for the purpose of displaying their NUDE or SEMI-NUDE bodies for the their receipt of consideration or compensation in any type or form.

An establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of Ohio engages in medically approved and recognized therapy

including, but not limited to, massage therapy, as regulated pursuant to ORC 4731.15, is not a Sexual Encounter Establishment.

Sexually-Oriented Business – An ADULT ARCADE, ADULT BOOKSTORE, ADULT CABARET, ADULT ENTERTAINMENT ESTABLISHMENT, ADULT MEDIA (VIDEO) STORE, ADULT MOTION PICTURE THEATER, ADULT NOVELTY STORE, ADULT THEATER, NUDE OR SEMI-NUDE MODEL STUDIO, SEX STORE, or SEXUAL ENCOUNTER ESTABLISHMENT.

“Sexually Oriented Business” does not include an ADULT MOTEL, as defined above.

Sexually-Oriented Novelties or Toys – Instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate or arouse human genital organs or female breasts or for sadomasochistic use or abuse of self or others.

Shingle Sign – A SIGN supported by one or two poles, measuring not more than four feet (4') from the ground to the top of the sign or STRUCTURE. The shingle is a small IDENTIFICATION SIGN, exceeding not more than two square feet (2 sq. ft.) in area, and shall denote only the name, occupation of the professional occupant of the BUILDING, and shall not be illuminated.

Short-Term Loan Lender – Any business that is licensed, or is required to be licensed, under ORC 1321.35 to 1321.48 to make short-time loans. Short-term loan lender does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Side Lot Line – See LOT LINE, SIDE.

Side Yard - See YARD.

Sign – Any display, figure, painting, drawing, placard, poster or other device placed on the ground or on any tree, wall, bush, rock, post, fence, BUILDING, STRUCTURE or thing whatsoever, which is designed, intended or used to convey a message, advertise, inform or direct attention to a PERSON, institution, organization, activity place, object or product. “Placed,” as used in this definition, includes erecting, constructing, posting, painting, printing, tracking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever.

Sight Distance – The minimum extent of an unobstructed vision (on a horizontal plane) along a STREET from a point five feet (5') above the centerline of a STREET.

Sign Structure – Any STRUCTURE that supports, or is capable of supporting, any SIGN as defined in this UDO. A sign structure may be a single pole, or may or may not be an integral part of the BUILDING.

Site Development Plan – The written document or set of plans that meet the requirements of this UDO, provide information on the location of the area proposed for DEVELOPMENT and the site in relation to its general surroundings, and existing characteristics of the site, including limits of earth disturbing activities.

Site Plan – A plan showing uses and STRUCTURES proposed for a PARCEL of land, as required by the regulations involved. Includes LOT LINES, STREETS, building sites, reserved OPEN SPACE, BUILDINGS, major landscape features – both natural and man-made – and, depending on the requirements, the location of proposed utility lines.

Skilled Nursing Facility – (Nursing Home) A residential facility used for the care of the aged, infirm, chronically ill, incurably ill or any other individual dependent on regular and ongoing nursing care; and which is not equipped for surgical care or for treatment of acute disease or serious injury; and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

Sketch Plan – An informal plan or sketch showing the existing features of a site and its surroundings and the general layout of a proposed MINOR SUBDIVISION.

Sleeping Area – Floor space provided in a BUILDING designed, intended or used primarily as a place to sleep. “Sleeping area” includes all bedroom space and all other areas where beds are permanently kept.

Small Loan Lender – Any business that is licensed, or is required to be licensed, under ORC 1321.01 to 1321.19 to make small loans. Small Loan Lender does not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Small Loan Operations – Small Loan Operations shall include ALTERNATIVE FINANCE SERVICE PROVIDERS, CHECK-CASHING BUSINESSES, CREDIT SERVICE ORGANIZATIONS,

MORTGAGE LOAN LENDERS, SHORT-TERM LOAN LENDERS and SMALL LOAN LENDERS. Small Loan Operations shall not include any bank, savings and loan, credit union or similar financial institution doing business under authority granted by the Ohio Superintendent of Financial Institutions or by the equivalent regulatory authority of another state of the United States.

Special Flood Hazard Area – Also known as “Areas of Special Flood Hazard,” it is the land in the floodplain subject to a one percent or greater chance of FLOODING in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on FLOOD INSURANCE RATE MAPS, FLOOD INSURANCE STUDIES and FLOOD HAZARD BOUNDARY AND FLOODWAY MAPS as *Zones A, AE, AH, AO, AI-30, and A99*. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a WATERCOURSE.

Specified Anatomical Areas – This term is used to describe:

- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, pubic region, buttocks, including the cleft, anus, or female breast below a point immediately above the top of the areola.

Specified Criminal Activity – Any of the following offenses: Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal laws of any local jurisdiction, state, or country for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense. The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

Specified Sexual Activities – Means any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- C. Excretory functions as a part of or in connection with any of the activities set forth in A. or B., above.

Stables – Any ACCESSORY STRUCTURE having stalls or compartments where animals, excluding dogs and cats, are boarded, trained or bred (See also KENNELS).

Start of Construction – The date the building permit was issued, provided the actual start of CONSTRUCTION, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent CONSTRUCTION of a STRUCTURE on a site, such as the pouring of slab or footings, the installation of piles, the CONSTRUCTION of columns, or any work beyond the stage of EXCAVATION; or the placement of a MANUFACTURED HOME on a foundation. Permanent CONSTRUCTION does not include land preparation, such as clearing, grading, and FILLING; nor does it include the installation of STREETS and/or walkways; nor does it include EXCAVATION for a BASEMENT, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of ACCESSORY STRUCTURES, such as DETACHED GARAGES OR SHEDS not occupied as DWELLING UNITS or not part of the main STRUCTURE. For a SUBSTANTIAL IMPROVEMENT, the actual start of construction means the first ALTERATION of any wall, ceiling, floor, or other structural part of a BUILDING, whether or not that ALTERATION affects the external dimensions of a BUILDING.

Stock-In Trade or Inventory – The individual items offered for sale or rental in the area of an establishment open to the public.

Stop-Work Order – An order issued that requires that all work on the site must cease, except work associated with bringing the site into compliance with the approved SWP3, SITE DEVELOPMENT PLAN or construction plans.

Story – The part of the BUILDING included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a BASEMENT is more than six feet (6') above GRADE, such BASEMENT shall be considered a story.

Story, Half – An uppermost story lying under a sloping roof having an area of at least two hundred square feet (200 sq. ft.) with a clear height of seven feet, six inches (7'6"). For the purposes of this UDO, the usable FLOOR AREA is only that area having at least four feet (4') of clearance height between the floor and the ceiling.

Storm Frequency – The average period of time, in years, within which a storm of a given duration and intensity can be expected to be equaled or exceeded.

Stormwater Management Plan (SMP) – The written document meeting the requirements of this UDO regulation that sets forth the plans and practices to be used to minimize storm water runoff from a site and to safely convey or temporarily store and release post-development storm water runoff at an allowable rate to minimize FLOODING and erosion.

Storm Water Pollution Prevention Plan (SWP3) – The document required by the Ohio EPA for compliance with its *NPDES Construction Activity General Permit #OHC000002*. The requirements of the SWP3 are required as part of the local jurisdiction's Stormwater Management Plan, as described above, and in this UDO.

Streamer – Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, string or cord, usually in series, designed to move in the wind. A streamer may have PENNANTS and/or BANNERS attached.

Street – An improved public way or RIGHT-OF-WAY dedicated to public use, which provides for vehicular and pedestrian access to abutting properties.

- A. *Alley*: Any dedicated public way affording a secondary means of access to abutting property, either to the back or side of properties abutting on another street, and not intended for general traffic circulation.
- B. *Collector Street*: A street, whether within a residential, industrial, commercial or other type of development, which primarily carries traffic from minor/local streets to major streets.
- C. *Expressways*: A thoroughfare that possesses extra-wide rights-of-way carrying high traffic volumes of unobstructed, limited access vehicular movement.
- D. *Major Street*: An arterial street intended for large volumes of through traffic and to carry cross-town traffic from several neighborhoods, thereby servicing collector streets. Such streets are intended for carrying heavy loads and large volumes of traffic, for both the immediate CITY area and the region beyond. Any street with a width, existing or proposed, of eighty (80) feet shall be considered a major thoroughfare.
- E. *Marginal Access Street*: A minor street that is parallel and adjacent to a major street or thoroughfare, and which provides access to abutting properties and protection from major or collector streets.
- F. *Minor Street*: A local street that primarily provides access to residential or other abutting property.

Street Line – The edge of the pavement along the front of the property.

Street Setback Measurements – All BUILDINGS and STRUCTURES shall hereafter be constructed in accordance with the required FRONT YARD SETBACKS in the DISTRICT in which it is to be located, measured from the dedicated RIGHT-OF-WAY line or the STREET LINE, whichever is greater, on expressways, major streets, collector streets, marginal access streets, minor streets and alleys.

Structural Controls – Any human-made facility, STRUCTURE, or device that is constructed to provide temporary storage and/or treatment of storm water runoff. Examples include retention and DETENTION BASINS, rock-check dams, SWALES, and constructed wetlands.

Structure – Anything constructed or erected. Its use requires location on the ground or attachment to something having location on the ground including, but not limited to a walled or roofed BUILDING, MANUFACTURED HOME, or gas or liquid storage tank that is principally above ground.

Subdivider – Any PERSON, partnership, corporation, association or other legal entity that creates or proposes to create a SUBDIVISION, all or a portion of which will be located within the CITY (See also DEVELOPER).

Subdivision, Major – A platting of land for the purposes of DEVELOPMENT and transfer of ownership. A major subdivision is any subdivision that does not meet the requirements of a MINOR SUBDIVISION. It requires approval of a PRELIMINARY PLAT by the PLANNING COMMISSION, approval of a FINAL PLAT by the PLANNING COMMISSION, ACCEPTANCE by

COUNCIL, and recording of the FINAL PLAT prior to the transfer of land (See also MAJOR SUBDIVISION).

Subdivision, Minor – A division of a PARCEL of land that is approved by the CITY ENGINEER and does not require a PLAT or the combination or replatting of two (2) or more PARCELS into a single LOT that is approved by the CITY ENGINEER (See MINOR SUBDIVISION).

Subdivision Regulations – Chapter 1111., including any amendments thereto, contained in this UDO.

Substantial Damage – Damage, of any origin, sustained by a STRUCTURE whereby the cost of restoring the STRUCTURE to its “before-damaged” condition would equal or exceed fifty percent (50%) of the REPLACEMENT COST of the STRUCTURE before the damage occurred.

Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a STRUCTURE, the cost of which equals or exceeds fifty percent (50%) of the REPLACEMENT COST of the STRUCTURE before the START OF CONSTRUCTION of the improvement. This term includes structures, which have incurred SUBSTANTIAL DAMAGE, regardless of the actual repair work performed. The term does not, however, include:

- A. Any improvement to a STRUCTURE that is considered NEW CONSTRUCTION;
- B. Any project for improvement of a STRUCTURE to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the APPLICATION for a DEVELOPMENT permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- C. Any ALTERATION of a HISTORIC STRUCTURE, provided that the ALTERATION would not preclude the structure's continued designation as a HISTORIC STRUCTURE.

Superblock – A residential BLOCK of exceptionally large size, in both dimensions, with access to interior LOTS by CUL-DE-SACS or loop streets and providing one or more COMMON OPEN SPACES.

Support Commercial Uses – Support RETAIL and PERSONAL SERVICE uses conducted primarily for the convenience of the employees of a permitted use, if such use serves the immediate area and the sum of all such uses occupy no more than ten thousand square feet (10,000 sq. ft.) of any BUILDING. Examples of such uses include retail, athletic clubs and gyms, personal service shops (barber, dry cleaner, salon, etc.), business services (printing, photocopying, mailing and packaging, etc.), child care center, cafeteria or RESTAURANT, financial institution, MEDICAL CLINIC.

Surveyor – A PERSON licensed by the State of Ohio and registered as a professional surveyor under ORC 4733.

Swale – A low-lying stretch of vegetated land that gathers and carries surface water.

Tavern – See BAR.

Temporary Sign – A SIGN announcing or advertising special events or sales, intended to be used and in fact used for a time period of sixty (60) days or less within one calendar year per location.

Temporary Vegetation – Short-term vegetative cover such as oats, rye, or wheat, used to stabilize the soil surface until final grading and installation of permanent vegetation.

Tent – Any STRUCTURE used for living or sleeping purposes, or for sheltering a public gathering, constructed wholly or in part from canvas, tarpaulin or other similar materials. It includes shelter provided for circuses, carnivals, sideshows, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures.

Time and Temperature Display – A cabinet containing illuminated numerals FLASHING alternately to show the time and temperature.

Through Lot – See LOT.

Total Area of a Sign – “Sign area” shall be measured as outlined in Section 1111.08(f) of this UDO.

Tower – Any STRUCTURE that is designed and constructed primarily for the purpose of supporting one or more ANTENNAS for telephone, radio and similar communication purposes, including self-supporting lattice, towers, guyed-towers, or MONOPOLES; the term includes radio and television transmission towers, microwave towers, common-carrier towers, wireless telecommunications towers, alternative tower structures, and the like; the term includes the STRUCTURE and any support thereto.

Traditional Neighborhood – A compact, mixed-use neighborhood where residential, commercial and civic BUILDINGS are within close proximity to each other.

Transportation or Communication Utility – A STRUCTURE or facility used by a PUBLIC UTILITY or quasi-public utility to store, distribute or generate electricity, gas or telecommunications and related

equipment, or to pump or chemically treat water. This use does not include storage or treatment of sewage, solid waste or hazardous waste.

Travel-Time Contour – A locus of points from which water takes an equal amount of time to reach a given destination such as a well or WELL FIELD.

Treatment Space – Floor space provided in a BUILDING that is designed, intended or used primarily for the treatment of human and/or animal illness.

Truck Stop/Truck Service or Gasoline Center - A business that provides the sale and storage of fuel, overnight or hourly parking, and/or other special services catering to COMMERCIAL VEHICLES, specifically Semi Trucks and Semi-Trailers, are prohibited under this UDO.

UDO – See Unified Development Ordinance.

Underground Storage Tank – Underground storage tank shall have the same meaning as in ORC 3737.87.

Unified Development Ordinance – The combining of development regulations and procedures, including zoning and subdivision regulations, sign and floodplain regulations, administrative and hearing procedures, etc. into one unified code and ordinance in the *City of Franklin Unified Development Ordinance*.

Use – The purpose for which land or a BUILDING is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance – A grant of relief from the standards of these regulations consistent with the variance conditions herein.

Variety Store (or Point-Price Retailer) – A commercial establishment that sells a wide range of inexpensive household goods, often selling or advertising all goods at a single price, which is reflected in the name of the establishment.

Vehicle (Motor-Driven) – Any automobile, truck, motorcycle, trailer, truck camper, RECREATIONAL VEHICLE, bus or boat (See also MOTOR VEHICLE).

Vehicle, Inoperable – Any MOTOR VEHICLE that does not have a current registration and/or cannot move under its own power.

Vehicle Dealer – The use of any BUILDING, or part thereof, land area or other premises for the display and/or retail sale, lease or rental of new or used VEHICLES including MOTOR VEHICLES, motorcycles, RECREATIONAL VEHICLES, boats and farm implements. Secondary supporting uses may also exist upon the same site, such as maintenance/repair service areas, parts storage areas, and financial services areas, which activities shall be conducted within a completely enclosed area. Such use shall not include VEHICLE WRECKING or junk business.

Vehicle Impound Lot – A business that engages in impounding or storing, usually temporarily, of legally impounded VEHICLES, whether publicly or privately impounded, or abandoned VEHICLES.

Vehicle Repair Services – A commercial establishment that provides, as its PRIMARY ACTIVITY, repair or restoration of VEHICLES, including the rebuilding or reconditioning of engines and/or transmissions; collision services, including body, frame or fender straightening or repair; overall painting; vehicle steam cleaning; upholstery; and replacement of parts and motor service of passenger cars and trucks not exceeding one and one-half ton capacity. Such uses may have outdoor display and/or storage, but may not include any junk or wrecking business, and all repair and/or restoration activities shall be conducted within a completely enclosed BUILDING or STRUCTURE. Such uses comprise a part of the use group S-1 of the Ohio Building Code.

Vehicle Wrecking – The dismantling or wrecking of used VEHICLES or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete, wrecked or INOPERABLE VEHICLES or their parts; excepting that VEHICLE IMPOUND LOTS are not included in this definition. Vehicle Wrecking is not permitted under this UDO.

Veterinary Services – A place used for grooming and/or for the care, diagnosis and treatment of sick, ailing, infirm or injured animals and those that are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation or recuperation of such animals. Such use may also include boarding that is incidental to the PRIMARY ACTIVITY. Such uses include animal hospitals/clinics, veterinarian offices and grooming services.

Video Booth – Any private or semi-private booth or any viewing room of less than one hundred fifty square feet (150 sq. ft.) of floor space or area to which the public may gain admittance, wherein a still or motion picture machine, projector, video monitor, or similar equipment is available for the purpose of showing still or motion pictures, videos, or similar images or photographic reproductions to five (5) or fewer individuals at any one time

Viewing Booth – LIVE VIEWING BOOTH or VIDEO BOOTH.

Viewshed – The area surrounding a WIRELESS TELECOMMUNICATIONS FACILITY or ANTENNA SUPPORT STRUCTURE, within which the facility or STRUCTURE is visible from off-site.

Violation – The failure of a STRUCTURE or other DEVELOPMENT to be fully compliant with the regulations contained in this UDO.

Wall Sign – A SIGN attached to a BUILDING face, with the exposed face thereof in a plane parallel to the plane of the wall. Wall signs include painted murals, messages, graphics and other designs painted along with any letters or numerals mounted on BUILDINGS and any extensions thereon.

Watercourse – Any natural or artificial waterway (including, but not limited to, streams, rivers, creeks, ditches, channels, canals, conduits, culverts, drains, waterways, gullies, ravines, or washes) in which waters flow in a definite direction or course either continuously or intermittently and including any area adjacent thereto which is subject to inundation by reason of overflow of flood water.

Watershed – A locus of points from which water takes an equal amount of time to reach a given destination such as a well or WELL FIELD.

Well Field – Means a tract of land that contains a number of wells for supplying water.

Wholesale Business – A commercial establishment that provides, as its PRIMARY ACTIVITY, storage, break-of-bulk and distribution operations to other commercial establishments. Such use may have some outdoor storage space and comprises a part of use group S of the Ohio Building Code. Examples of such uses include truck terminals and warehouses.

Window Sign – A SIGN, graphic, poster, symbol or other identification or information about the use or premises which is physically affixed to or painted on the glass or other structural component of the window or a SIGN, graphic, poster, symbols, or other identification or information about the use or premises erected on the inside of the BUILDING within two feet (2') of the window and intended to be viewed through the window from the exterior of the premises.

Wireless Telecommunications Facilities – Any cables, wires, lines, wave guides, ANTENNAS, microwave dishes and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a PERSON seeks to locate or has installed upon a TOWER or ANTENNA SUPPORT STRUCTURE; however, the term Wireless Telecommunications Facilities shall not include:

- A. Any satellite earth station antenna two meters in diameter or less which are located in an area zoned industrial or commercial;
- B. Any satellite earth station antenna one meter or less in diameter, regardless of zoning category; or
- C. Antennas used by amateur radio operators.

Yard – The OPEN SPACE on the same LOT with a MAIN BUILDING unoccupied and unobstructed from the ground upward except as otherwise provided in this UDO, and a defined herein:

- A. *Front yard*: An OPEN SPACE extending the full width of the LOT, the depth of which is the minimum horizontal distance between the FRONT LOT LINE and the nearest point of the MAIN BUILDING. There shall be a front yard on each STREET side of a CORNER LOT. No ACCESSORY STRUCTURE shall project beyond the SETBACK line on either STREET.
- B. *Rear yard*: An OPEN SPACE extending the full width of the LOT, the depth of which is the minimum horizontal distance between the REAR LOT LINE and the nearest point of the MAIN BUILDING. In the case of a CORNER LOT, the rear yard shall be opposite of the front of the BUILDING.
- C. *Side yard*: An OPEN SPACE between a MAIN BUILDING and the SIDE LOT LINE, extending from the FRONT YARD to the REAR YARD, the width of which is the horizontal distance from the nearest point of the SIDE LOT LINE to the nearest point of the MAIN BUILDING.

Zero Lot Line House (or Townhouse) – A BUILDING designed, intended or used primarily for residential purposes. The DWELLING UNIT is a single-family detached unit that is placed against one of the SIDE LOT LINES to allow more open yard space.

Zoning District – A portion of the incorporated area of the CITY within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this UDO.

Zoning Map – The official map showing the ZONING DISTRICTS within the incorporated areas of the CITY and which is a part of the UDO.

Zoning Official – The person holding the title of Zoning Official of the City of Franklin, or his designee.

Exhibit B**TABLE 7: Uses in the Commercial Districts**

Type of Use	Commercial District		
	C-1	C-2	C-3
General Sales or Services			
Antennas & Towers	A	A	A
Bar, Lounge, Tavern	P	PR	C
Business Professional	P	P	P
Business Retail	P	P	P
Commercial Training	P	P	P
Consumer Retail	P	C	P
Convenience Food Store	P	C	C
Decks, Patios & Porches	A	A	A
Detached Garages & Storage Sheds	A	A	A
Dish Antenna	A	A	A
Drive-Thru Retail	P	C	C
Fast Food Restaurants	P	PR	C
Fences	A	A	A
Fence, Barbed-Wire	A	A	PR ^Δ
Fence, Electric	C	C	PR [□]
Food Related Retail	P	P	P
Food Service/Catering	P	P	P
Gasoline Service Station	C	C	C
Gazebos	A	A	A
General Retail	P	C	C
Grocery Food and Beverage	P	C	C
Health and Personal Care	P	P	P
Hospitals	P	PR	PR
Hotels and Motels	P	PR	C
Large Format Retail	C	PR	PR
Medical and Health Related Offices	P	P	P
Medical Center/Clinic	P	P	C
Mortuaries	P	PR	PR
Motor Vehicle Oriented Business	C	C	PR
Personal Service	P	P	P
Restaurants	P	C	P
Secondhand Dealers	P	PR	PR
Skilled Nursing Facility	P	P	C
Small Loan Operations*	C	C	PR
Swimming Pools [□]	A	A	A
Variety Store or Price-Point Retailer	C	C	C
Vehicle Dealer	C	C	PR
Vehicle Repair Services	C	C	PR
Veterinary Services	C	C	C
Arts, Entertainment, and Recreation			
Commercial Entertainment	P	C	C
Commercial Recreation	C	C	C
Public Recreation	PR	PR	C

P=Permitted Use, C=Conditional Use, A=Accessory Use, PR=Prohibited

*Limited to one per 4000 residents.

Δ Not prohibited if use is governmental or institutional function; permit required.

□ Not prohibited if use is governmental or institutional function; conditional use permit required.

□ Private, Accessory to Primary Use.

TABLE 7: Uses in the Commercial Districts

Type of Use	Commercial District		
	C-1	C-2	C-3
Education, Public Administration, Health Care & Other Institutional Uses			
Churches	P	P	C
Cultural/Community Facilities	P	P	C
Day Care Centers	C	C	C
Elementary Schools	C	C	C
Junior and Senior High Schools	C	C	C
Colleges and Universities	C	C	C
Health Care and Human Services	C	C	C
Residence or Accommodation			
Dwelling, Single Family	PR	PR	P
Dwelling, Zero Lot Line	PR	PR	P*
Upper Floor Dwelling Units	PR	C	C

P=Permitted Use, C=Conditional Use, A=Accessory Use, PR=Prohibited

*Zero Lot Line Dwellings shall only be permitted in the R-4 District as part of an approved PUD or PRCD

Legislative Cover Memo

Meeting Date: April 5, 2021

Agenda Item: **Resolution 2021-36**
DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE TITLE TO OR INTERESTS IN REAL PROPERTY, FORMERLY KNOWN AS 335 S. MAIN STREET, FRANKLIN, OHIO, PERMANENT PARCEL ID#: 04-32-386-015.

Submitted by: Jonathan Westendorf, City Manager

Scope/Description: This property was sold without bidding to MJ Holdings in order to stimulate economic development for the downtown area. Unfortunately, the burdens of COVID rendered the project economically unfeasible for MJ Holdings to continue as planned in good faith by MJ Holdings and the City of Franklin. This resolution will empower the City Manager to purchase the identified property within the City of Franklin for \$1.00.

Exhibits: Exhibit A: Quit Claim Deed

Recommendation: Staff Recommends Approval

CITY OF FRANKLIN, OHIO
RESOLUTION 2021-36

**DECLARING CITY MANAGER, THE CITY'S CONTRACTING OFFICER, TO BE EMPOWERED TO ACQUIRE
TITLE TO OR INTERESTS IN REAL PROPERTY, FORMERLY KNOWN AS 335 S. MAIN STREET, FRANKLIN,
OHIO, PERMANENT PARCEL ID#: 04-32-386-015**

WHEREAS, Charter of the City of Franklin, Ohio, Effective January 1, 1984, and last amended on January 1, 2018, Section 3.03 POWERS OF COUNCIL, provides:

- (i) The power to acquire title to or interests in real property shall be vested in the Council, whether such property is acquired by: the exercise of the power of eminent domain, purchase, gift, lease, devise, bequest, in trust, or otherwise. The power to sell or otherwise convey, lease, or grant interests in real property shall be vested in the Council. Such sale, conveyance, lease or grant, shall be in the manner provided by the ordinance authorizing the sale, conveyance, lease, or grant provided that real estate shall not be sold or leased except to the highest and best bidder after competitive bids have been received pursuant to a notice of the proposed sale or lease published once a week for four (4) consecutive weeks in a newspaper of general circulation in the City. Written notice of intent to sell or lease real property shall be posted on the real estate to be sold or leased in a conspicuous location on such property and shall remain posted for four (4) consecutive weeks. The requirement that real estate be sold or leased only after competitive bidding may be waived upon the vote of at least five (5) members of the Council provided, however, that the Council shall give notice of its intent to dispense with competitive bidding by publication of such intent in the manner prescribed herein and by the reading of such intent at two consecutive regular Council meetings. Notwithstanding any other provision of this section, property may be sold or leased to the United States, the State of Ohio, or any governmental unit or agency thereof, without competitive bidding, by ordinance, upon the vote of at least five (5) members of Council. (Ord 17-17, 11-17-17; passed by electorate 11-17-17, eff. 1-1-18);

WHEREAS, the City Manager, under the Charter of the City of Franklin, Ohio, Effective January 1, 1984, and last amended on January 1, 2018, Section 3.03 POWERS OF COUNCIL, appoints the City Contracting Officer; and

WHEREAS, the City sold permanent parcel number 04-31-127-0170, formerly known as 335 S. Main Street, Franklin, OH 45005 to MJ Holdings LLC with intentions of stimulating economic development, however, the timing of this project faced severe impediments with the onset of COVID rendering it economically unfeasible for MJ Holdings LLC to continue; and

WHEREAS, the City desires to acquire this property back in order to explore new opportunities for development of it; and

WHEREAS, the Seller MJ Holdings LLC has offered to sell the property to the City of Franklin for the sum of \$1.00; and

WHEREAS, the City benefits, as to its citizens, when the City purchases certain property situated in city limits that it deems desirable to accomplish the objectives established by council and carried out by staff.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of the members of Council present concurring, that:

Section 1. It is hereby declared necessary for the preservation of the public health, safety and welfare of the City of Franklin, Ohio, to reduce blight, nuisance, and like conditions within the City;

Section 2. It is hereby declared necessary for the preservation of the public health, safety and welfare of the City of Franklin, Ohio, to acquire certain property, regardless of whether such property in blighted or nuisance like condition, to accomplish the objectives established by Council and carried out by Staff to best serve its citizens;

Section 3. The City Manager is hereby empowered and directed, by Council under Charter Section 3.03(i), to carry out the City's objectives by acquiring title to or interests in the real property identified by permanent parcel number 04-32-386-015 and formerly known as 335 S. Main Street, Franklin, OH 45005, said parcel to be sold to the City of Franklin in the amount of \$1.00;

Section 4. This Resolution shall become effective immediately upon its passage.

ADOPTED: April 5, 2021

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on April 5, 2021

Khristi Dunn, Clerk of Council

QUIT CLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS THAT MJ HOLDINGS LLC, Grantor, in consideration of One Dollar (\$1.00) and other good and legal consideration, to it in hand paid by **THE CITY OF FRANKLIN, OHIO, an Ohio municipality**, Grantee, whose tax mailing address is 1 Benjamin Franklin Way, Franklin, Ohio 45005, does hereby **Remise, Release and Forever Quit Claim**, to the said THE CITY OF FRANKLIN, OHIO, Franklin, Ohio, its successors and assigns forever, the following described Real Estate:

Situate in the City of Franklin, County of Warren, State of Ohio, and is described as follows:

And being Lot Numbered FOUR HUNDRED EIGHTY-FIVE (485) of the revised Plat of the said City of Franklin, Warren County, Ohio and also a strip of land lying South of and immediately adjacent to the above described lot, which strip of land was formerly used for alley purposes, by which was recently vacated for that purpose, being approximately 6 feet by 192 feet containing approximately 0.026 Acres, more or less.

Subject, however, to all restrictions, reservations, limitations, conditions, covenants, easements, rights of way, and legal highways of record pertaining to the same and now in force and effect.

Permanent Parcel Number: 04-32-386-015

Prior Deed Reference: Deed 2020-003433; Deed 2014-009434; Official Record 3643, Page 787; Plat Book 2, Pages 17 through 37 of the Deed Records of Warren County, Ohio.

Commonly known as: 335 S. Main Street, Franklin, Ohio 45005.

Executed this _____ day of _____, 2021.

GRANTOR:

MJ HOLDINGS LLC

By: _____
JASON GROVES – Member / Owner

STATE OF _____)
: SS
COUNTY OF _____)

BE IT REMEMBERED, that on this _____ day of _____, 2021, before me, the subscriber, personally came the above-named MJ HOLDINGS LLC, by and through its Member / Owner JASON GROVES, the Grantor in the foregoing deed and as such, acknowledged the signing of the same to be his voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year last aforesaid.

Notary Public

This instrument prepared by:

Lynnette Dinkler
Law Director – City of Franklin
DINKLER LAW OFFICE, LLC
5335 Far Hills Avenue, Suite 123
Dayton, OH 45429