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CITY OF FRANKLIN  
COMMITTEE OF THE WHOLE MEETING  
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS  
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN  
AGENDA\*

MONDAY, FEBRUARY 6, 2023 AT 6:30 P.M.

- A. Call to Order and Roll Call.
- B. Fire Department Administration will provide information on historic, current, and future provision of Fire and EMS Services in Franklin, for discussion and future decision-making by the Common Council.
- C. Status update on the rewrite of the Unified Development Ordinance (UDO).
- D. An Ordinance to Repeal Chapter 165 of the Municipal Code and to Repeal and Recreate Chapter 129 of the Municipal Code and to Rename Chapter 129 From “Filling and Grading” to “Land Disturbing Construction Activities.”
- E. An Ordinance to Amend §207-21 of the Municipal Code regarding Special Assessments of Water Main Laterals.
- F. Adjournment.

\*Supporting documentation and details of these agenda items are available at City Hall during normal business hours

[Note Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services For additional information, contact the City Clerk’s office at (414) 425-7500 ]

<b>APPROVAL</b>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 2-6-23
<b>REPORTS AND RECOMMENDATIONS</b>	Fire Department Administration will provide information on historic, current, and future provision of Fire and EMS Services in Franklin, for discussion and future decision-making by the Common Council.	<b>ITEM NUMBER</b> B.

**Background:**

The fire department strives to provide high quality Fire Suppression and Emergency Medical Services to the residents of and visitors to the City of Franklin, and currently does so from three fire stations. Fire Station #2 was constructed adjacent to the Franklin Business Park approximately 23 years ago, at a time when the park was expanding. At the time, it was generally accepted that a fourth fire station would be required to serve the South-West quadrant of Franklin if and when development to that area occurred. Significant development is ongoing in that area of the city, with new residential occupancies already constructed and occupied.

Fire & EMS Service best practices call for deployment of fire and EMS resources so as to provide for a four-person fire suppression company, and for trained EMS providers equipped with an automatic external defibrillator to arrive within 240 seconds of travel time for 90 percent of incidents. These response times are established based on studies of the time that it takes for a fire to develop and evolve from contents and furnishings burning, to structural members of the house or building becoming involved. In the case of EMS, the times are based on how long the heart can maintain enough electrical activity to be successfully defibrillated.

Significant residential development is occurring in areas of the city that current fire department staffing and station locations do not adequately serve in context of the considerations above.

Fire Department Administration will provide information and options for future consideration of its staffing and deployment model.

**COUNCIL ACTION REQUESTED**

Informational Only.

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APPROVAL	COMMITTEE OF THE WHOLE	MEETING DATE 02/06/2023
REPORTS & RECOMMENDATIONS	Status update on the rewrite of the Unified Development Ordinance (UDO)	ITEM NUMBER C.

City Development staff presented the previous status update to the Common Council on November 15, 2022. The Common Council carried a motion to place the discussion of the Unified Development Ordinance (UDO) rewrite to this February Committee of the Whole meeting.

**STATUS**

The UDO rewrite project consists of 6 steps:

1. Project Kick Off. Staff and the consultants conducted a project kick-off meeting and organized an UDO Rewrite Task Force, including the Plan Commission, 1 member of the Economic Development Commission, and 2 members of the Environmental Commission.
2. Public Engagement. Staff and the consultants held informational sessions with the public at City Hall on August 26, 2021, and at the St. Martins Fair in September 2021; had discussions with the Plan Commission and the Common Council on expectations of this process; and conducted stakeholder interviews.
3. Current UDO Diagnosis and Preliminary Recommendations. Presentation to the Task Force on February 3, 2022 and status update to the Common Council on February 15, 2022.
4. Draft UDO Sections and Review Meetings with the Task Force at the Plan Commission (in progress):
  - 1<sup>st</sup> Workshop, September 8 and 21, 2022.  
Articles: 1. General Provisions, 2. Establishment of Districts, 3. District Specific Standards and 4. Use Specific Standards.
  - 2<sup>nd</sup> Workshop, November 3 and 17, 2022.  
Articles: 5. General Development Standards and 6. Sign Standards.
  - 3<sup>rd</sup> Workshop, **informative session on February 9 and full session on February 23, 2023, (in progress)**  
Articles: **8. Subdivision Standards and 9. Administration Standards and Procedures.**
  - Next Workshops, dates TBD.  
Articles: 7. Natural Resource Standards, 10. Planned Unit Developments, 11. Nonconforming structures, lots and uses, and 12. Definitions.

**Attachments:** Table of contents, draft articles 1-9 and draft zoning map are attached to this packet. Articles 1-6 include revisions following the workshops with the Task Force, but articles 8-9 have not been reviewed yet by the Task Force.

5. Draft and Final UDO. (anticipated for 1<sup>st</sup> semester of 2023)  
Draft UDO, staff working session, UDO rewrite informational brochure, Task Force workshop, workshop with elected officials, public open house, final UDO and legal review.
6. Adoption and Implementation. (anticipated for 2<sup>nd</sup> semester of 2023)  
Public hearing and adoption.

Below is a list with some of the proposed changes to the current UDO:

- Consolidation of the current 38 zoning districts into 22, reducing redundancy (Article 2).
- The SIC use classification is replaced with broader use categories (Article 2).
- For residential districts, density would be regulated only by minimum lot area and width, density standards removed (Article 3).
- Minimum living area standards removed (Article 4).
- Accessory Dwelling Units (ADU) would be allowed in residential districts (Article 4).
- New standards for food trucks, outdoor dining, short-term rentals, solar energy collection systems as well as townhomes and multifamily buildings (Article 4).
- Minimum parking ratios replaced with maximum ratios. New standards for bicycle parking and pedestrian circulation (Article 5).
- Signs standards moved from the Municipal Code to the new UDO (Article 6).
- New connectivity index for subdivisions (Article 8).
- Streamlined review process. For example, the Zoning Administrator would have authority to approve site plans, except for projects with more than 100,000 sq. ft. of floor area (Article 9).

#### ***FISCAL NOTE***

No impact, agreement already in place. This is a status update only.

#### ***BACKGROUND***

The UDO is being revised and updated as recommended by the local comprehensive plan: "Based upon the number of potential zoning, land division, and design related changes identified in the City of Franklin 2025 Comprehensive Master Plan, it is herein recommended that the City undertake an update of the Unified Development Ordinance as soon as practical" (Land Use chapter, page 85).

The Unified Development Ordinance (UDO) rewrite is being developed by the Department of City Development, with assistance from planning firms Houseal Lavigne Associates, LLC and Birchline Planning, LLC. The Common Council authorized a professional agreement with these consultants in June 2021.

This item is a status update on this project. No action is required at this time.

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# Article 1. General Provisions

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## 15-1-01. Title

- A This Ordinance shall be known as, referred to, or cited as, "Unified Development Ordinance, City of Franklin, Wisconsin" or the "UDO"

## 15-1-02. Purpose

- A The purpose of this UDO is to promote the health, safety, morals, prosperity, aesthetics, and general welfare and to regulate and control the division of land within the limits of the City of Franklin, Wisconsin

## 15-1-03. Intent

It is the general intent of this UDO to regulate the division of land and restrict the use of all structures, lands, and waters to achieve the following objectives

- A Regulate and control development densities and formats to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage
- B Regulate population density and distribution to avoid inefficient land use and development patterns, to further the orderly layout and appropriate use of land, and to facilitate the provision of adequate public service and utilities
- C Regulate parking, loading, and access to lessen congestion and promote the safety and efficiency of streets and highways
- D Ensure safety from fire, flooding, pollution, contamination, panic, and other dangers
- E Stabilize and protect existing and future property values
- F Encourage compatibility between different land uses and protect from the encroachment of incompatible development
- G Further the wise use and conservation of natural resources including soils, topography water, floodplains, shorelands, drainageways, wetlands and shoreland wetlands, woodlands and forests, scenic resources, and wildlife resources
- H Prevent flood damage to persons and property to minimize expenditures for flood relief and flood control projects
- I Provide for and protect a variety of suitable commercial and industrial sites
- J Protect the traffic-carrying and pedestrian capacity of existing and proposed arterial streets, highways, and collector streets

- K Facilitate adequate provisions for housing, transportation, pedestrian access, water supply, stormwater, wastewater, schools, parks, playgrounds, and other public facilities and services
- L Control building sites in areas covered by poor soils or in other areas poorly suited for development due to natural resource features or other characteristics
- M Facilitate the appropriate division of larger tracts into smaller parcels of land
- N Ensure adequate legal descriptions and proper survey monumentation of subdivided land
- O Implement the municipal, County, watershed, or regional plans or their components adopted by the City and facilitate the enforcement of those development standards
- P Provide for the administration and enforcement of this UDO

#### 15-1-04. Interpretation

- A **Minimum Standards Established.** The provisions of this UDO shall be interpreted as minimum requirements, unless otherwise stated, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes
- B **Severability.** If any part, division, section, provision, or portion of this Ordinance is adjudged unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this UDO shall not thereby be affected but shall remain in full force and effect. If an application of this UDO to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgement shall not be applicable to any other structure, land, or water not specifically included in said judgement

#### 15-1-05. Jurisdiction

- A The jurisdiction of this Ordinance shall apply to all structures, lands, water, and air within the corporate limits of the City of Franklin

#### 15-1-06. Vested Rights

- A **Construction and Uses Approved Prior to UDO Effective Date.** All buildings, structures, and uses authorized by permit prior to the effective date of this UDO or any amendment thereto shall be subject to the applicable provisions of the UDO at the time of approval
- B **Applicability to Pending Applications.** When a complete application for a zoning action is submitted but pending action by the City on the effective date of this UDO, the provisions in effect when the application was filed shall govern the review and approval. Upon the refiling of any pending application after the effective date of this UDO, the refiled application shall such application shall be subject to the applicable provisions of this UDO at the time of submittal
- C **Construction Allowed pursuant to Approved Plans.** Nothing in this UDO shall require a change in the plans for any structure or use if a building permit or certificate of occupancy for such structure was lawfully issued prior to the effective date of this UDO or any such amendment thereto, and such building or certificate of occupancy had not by its own terms expired prior to the effective date of this UDO, and construction pursuant to such permit is commenced prior to the expiration date of such permit
- D **Building Permit.** Where a building permit for a building or structure has been issued prior to the effective date of this UDO and construction is commenced within ninety (90) days of the effective date of this UDO, the building or structure may be completed in accordance with the approved plans for which the building permit has been issued
- E **Final Subdivision Plat** Any preliminary subdivision plat filed prior to the effective date of this UDO shall vest such approval rights upon the approval of the preliminary subdivision plat. Any subsequent final subdivision plat may be subsequently filed in accordance with the approved preliminary plat





## Article 2. Establishment of Districts

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### 15-2-01. Districts Established

#### A Base Districts.

##### 1 Residential Districts.

- a R-C - Conservation Residence District
- b R-SE - Suburban/Estate Residence District
- c R-SR - Suburban Residence District
- d R-M - Multiple-Unit Residence District
- e R-V - Village Residence District

##### 2 Commercial and Mixed-Use Districts.

- a B-N - Neighborhood Business District
- b B-G - General Business District
- c B-R - Regional Business District
- d B-MU - South 27<sup>th</sup> Street Mixed-Use District
- e B-SM - Saint Martin's Road Historic Business District

##### 3 Industrial and Agricultural Districts.

- a B-P - Business Park District
- b LI - Limited Industrial District
- c A - Agricultural District
- d A-P - Agricultural Prime District

##### 4 Miscellaneous Districts.

- a P - Park and Open Space District

- b I - Institutional District
  - c L - Landfill District
  - d PDL - Planned Development Legacy District
- 5 **Floodplain Districts.**
- a FW - Floodway District
  - b GFP - General Floodplain District
  - c FF - Floodfringe District

## 15-2-02. Purpose and Intent of Districts

### A Residential Districts

- 1 **R-C - Conservation Residence District.** The R-C Conservation Residence District is intended to allocate land for single-family residential uses on large lots and in low-density settings. The District is further intended to preserve open space, sensitive natural features, and maintain the community's rural residential setting and scenic viewsheds where these assets exist in the southern areas of the City.
- 2 **R-SE - Suburban/Estate Single-Family Residence District.** The R-SE Suburban/Estate Single-Family Residence District is intended to provide land for single-family residential housing in moderately-low densities and that is suburban or semi-rural in character. The District is further intended to preserve and protect the City's natural resources, including woodlands and open spaces.
- 3 **R-SR - Suburban Single-Family Residence District.** The R-SR Suburban Single-Family Residence District is intended to provide land for single-family suburban residential housing at moderately low densities. The District is designed to preserve the community's suburban and semi-rural character and its open space and natural resources. The district is intended to allow infill in locations where moderately low-density neighborhoods exist and to allow new residential growth as the community determines is appropriate.
- 4 **R-M - Multiple-Family Residence District.** The R-M Multiple-Family Residence District is intended to establish and preserve land for both multifamily and single-family attached residential development such as duplexes, townhomes, and rowhomes to accommodate a variety of households with different lifestyles, age ranges, and incomes. The District is intended to allow a flexible mix of scales, densities and formats throughout the community while ensuring that the single-family attached and multifamily residential uses enhance the character of Franklin's residential setting, contribute to the community's visual appeal, and ensure the adequate provision of open space.
- 5 **R-V - Village Residence District.** The R-V Village Residence District is intended to preserve the single-family residential character and architectural qualities of the Saint Martin's Historic Village Area. The District is intended to allow new single-family residential infill on vacant or underused sites in the Village area, provided that such development is consistent with the historic visual character and preserves its moderate residential density.

### B Commercial and Mixed-Use Districts

- 1 **B-N - Neighborhood Business District.** The B-N Neighborhood Business District is intended to provide for the day-to-day retail, commercial service, and employment needs of Franklin residents, particularly the needs of the neighborhoods adjacent to properties in the District. The District is further intended to promote a mutually supportive mix of small-scale retail establishments and to ensure safe and convenient pedestrian and vehicular circulation on-site and between adjacent sites as redevelopment of existing sites occurs.
- 2 **B-G - General Business District.** The B-G General Business District is intended to promote a variety of commercial service and retail uses along the City's major roadways. The District is intended to allow moderately large-scale

development that serves the general population of Franklin. It is further intended to promote commercial development in visually appealing plaza formats that promote safe and convenient pedestrian travel on sites and between adjacent sites and neighborhoods.

- 3 **B-R - Regional Business District.** The B-R Regional Business District is intended to promote a variety of commercial service and retail uses along the City's major roadways to serve the needs of Franklin residents as well as a regional consumer market beyond the City's borders. Moderately large-scale development should be configured with groups of large-lot commercial structures with outlot commercial buildings surrounding shared parking areas and should provide safe and convenient pedestrian travel on-site, and when practicable, between other sites and neighborhoods.
- 4 **B-MU - South 27<sup>th</sup> Street Mixed-Use District.** The B-MU South 27<sup>th</sup> Street Mixed-Use District is intended to provide land for a mutually-supportive combination of retail, commercial, office, and compact residential uses in buildings' upper floors along South 27<sup>th</sup> Street. Development is configured in multi-building plaza formats and on relatively large sites. The District is intended to facilitate greater densities of retail, commercial, office, and residential uses than in the B-1 through B-3 Districts, given South 27<sup>th</sup> Street's direct access to bus transit. The development should further be arranged in cohesive plaza developments that facilitate convenient vehicle and pedestrian travel and enhance the corridor's appearance.
- 5 **B-SM - Village Business District.** The B-SM Village Business District is intended to promote a mix of commercial retail, service, and upper-floor residential uses in the historic Saint Martin's Village area while maintaining the area's traditional character and built form. The District is designed to preserve historic structures while allowing infill development on underused sites that is consistent with the area's built characteristics and architectural qualities. Development should continue to be formatted in small lots and buildings should be placed relatively near front lot lines to preserve the area's pedestrian-oriented character.

#### C Industrial and Agricultural Districts.

- 1 **B-P - Business Park District.** The B-P Business Park District is intended to promote a flexible mix of light industrial, research, and office uses in a campus like setting. Uses are conducted primarily indoors and do not have the potential to generate nuisances to adjoining properties. Circulation systems should be integrated into the site in a cohesive manner to ensure convenient pedestrian and vehicular travel.
- 2 **LI - Limited Industrial District.** The LI Limited Industrial District is intended to provide land for manufacturing, industrial, warehousing, and similar uses of a limited scale and intensity. The district is intended to support employment opportunities in the City while maintaining the community's natural resources and neighborhood character.
- 3 **A - Agricultural District.** The A Agricultural District is intended to preserve land in the City historically used for small farming operations engaged in crop production, the raising of livestock, the cultivation of orchards, and other small-scale agricultural activities. The district also accommodates limited single-family housing. The District is intended to preserve the large contiguous parcels of land that are characteristic of the community's rural areas.
- 4 **A-P - Prime Agricultural District.** The A-P Prime Agricultural District is intended to preserve and protect land in the City historically designated as prime agricultural land in the City of Franklin's Comprehensive Plan. The District is intended to preserve the natural integrity, agricultural productivity, and scenic qualities of these lands while allowing limited single-family residential development.

#### D Miscellaneous Districts

- 1 **P - Park and Open Space District.** The P Park and Open Space District is intended to provide land for parks and recreational facilities that meet the needs of the Franklin community while also preserving the City's natural resources, including rivers, woodlands, and open space.
- 2 **I - Institutional District.** The I Institutional District is intended to allocate land for public or semi-public uses, municipal facilities, utilities, and noncommercial places of assembly as defined in this UDO. The district serves to accommodate existing and future public and semi-public uses and to allocate land separately from commercial and residential uses.

- 3 **L - Landfill District.** The L Landfill District is intended to contain and regulate existing and former landfill uses in the City while mitigating their adverse impacts such as odor, noise, and traffic on the community's commercial and residential areas
- 4 **PDL - Planned Development Legacy District.** The PDL Planned Development Legacy District includes properties that have been previously zoned as a "planned development district" and are governed by a unique set of regulations as set forth in the related planned development ordinance. Properties zoned in the Legacy Planned Development District will continue to operate under their specific planned unit development ordinance. No property may be rezoned into the Legacy Planned Development District after the date of the adoption of this chapter

#### E Floodplain Districts.

- 1 **FW - Floodway District.** The FW Floodway District, is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s 5 1(5)
- 2 **GFP - General Floodplain District.** The GFP General Floodplain District is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM
- 3 **FF - Floodfringe District.** The GFP General Floodplain District is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM

### 15-2-03. Official Zoning Map

A **Official Zoning Map Established.** The location and boundaries of the districts established by this UDO shall be established in the Zoning Map as amended, which is incorporated herein and hereby made a part of this Ordinance

#### B District Boundary Description and Interpretation.

- 1 **Zoning Boundary Determination.** The district boundaries shall be streets, alleys, railroads, lot lines, streams, floodplain boundaries, and wetland boundaries unless otherwise shown on the Zoning Map
- 2 **Zoning Boundary Determination for Approximate Boundaries.** Where the designation of the Official Zoning Map indicates that various zoning districts are approximately bounded by a street, alley, lot line, stream, floodplain boundary, or wetland boundary, such lot line or the centerline of such street, alley, or railroad right-of-way, or centerline of the main channel of such stream, the floodplain boundaries, or wetland boundaries as delineated on maps prepared by the City or under the Root River Watershed study, or as determined through the use of on-site wetland delineation, flood profiles and accompanying hydrologic and hydraulic engineering data, shall be construed to be the zoning district boundary line
- 3 **Split Zoning of New Lots Prohibited.** The split zoning of any newly created lot or parcel into more than one zoning district shall not be allowed except for parcels split between a district and the AO, GFP, FW, and FF Districts
- 4 **Zoning of Annexed Land** Any additions to the incorporated area of the City of Franklin shall be classified in the A Agricultural District until otherwise classified by amendment
  - a **Annexations or Consolidations Containing Shorelands.** Annexations containing shorelands shall comply with § 62.231 of the Wisconsin Statutes
  - b **Annexations or Consolidations Containing Floodplains.** Annexations or consolidations containing floodplains shall be placed in the following districts as applicable
    - i All floodways and unnumbered A Zones on the FEMA map shall be placed in the FW Floodway District

- ii All other floodplains shall be placed in the GFP General Floodplain District

## Article 3. District Specific Standards

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### 15-3-01. Bulk and Dimensional Standards

A **Residential District Bulk and Dimensional Standards.** Table 15-3 0100(A) establishes the bulk and dimensional requirements for development or the use of a lot in each residential district

<b>Table 15-3-01(A): Residential District Bulk and Dimensional Standards</b>					
Standard	R-C	R-SE	R-SR	R-M	R-V
<b>Lot Standards (Minimum)</b>					
Lot Area (sqft)	10,000	18,000	10,000	12,000(1)	7,200
Lot Area / DU (sqft)(2)	-	-	-	4,500	-
Lot Width (ft)	60	90	80	100	60
Lot Depth (ft)	110	110	110	110	110
<b>Yard Setbacks (Minimum)</b>					
Front (ft)	25	45	30	15	25
Street Side (ft)	15	35	20	10	15
Interior Side (ft)	5	10	10	5	5
Rear (ft)	25(3)	30(3)	30(3)	15(3)	25(3)
<b>Building Standards (Maximum)</b>					
Height Building (ft)	35	35	35	35	35
Impervious Surface Coverage (%)	20	40	50	60	40
<b>Notes</b>					
(1) A lot area of 6,000 square feet shall be allowed for duplex structures with a parti wall					
(2) Lot area per dwelling unit requirements shall apply in addition to the baseline lot area requirement for each additional dwelling unit on a lot over one					
(3) Minimum setback of 10 feet shall be allowed for garages					

B **Mixed-Use and Nonresidential District Bulk and Dimensional Standards.** Table 15-3 0100 (B) establishes the bulk and dimensional requirements for development or uses of a parcel in each mixed-use or nonresidential district.

**Table 15-3-01(B): Mixed-Use and Nonresidential District Bulk and Dimensional Standards**

Standard	B-N	B-G	B-R	B-MU	B-SM	B-P	LI	A	A-P	I	P
<b>Lot Standards (Minimum)</b>											
Lot Area (acres)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3	35	n/a	n/a
Lot Width (ft)	50	50	50	50	50	50	50	200	300	50	50
Lot Depth (ft)	110	110	110	110	110	110	110	110	110	110	110
<b>Yard Setbacks (Minimum)</b>											
Front (ft)	25	25	40	30(1)	10	50	30	50	50	30	50
Street Side (ft)	25	25	40	30(1)	15	50	30	50	50	20	50
Interior Side (ft)	10	10	10	10(1)	5	20	20	25	25	10	20
Rear (ft)	20	20	20	30(1)	20	40	15	50	50	30	50
<b>Building Standards (Maximum)</b>											
Height Building (ft)	40	40	50	50(2)	40	95	45	35	35	45	40
Impervious Surface Coverage (%)	60	70	70	70	90	60	70	n/a	n/a	60	n/a
<b>Notes</b>											
(1) 40% of the required setback may be reduced when at least 15% of dwelling units on site are deed restricted to be affordable relative to 80% of the Milwaukee County Area Median Household Income. A minimum of 1 total dwelling units shall be provided on site to qualify.											
(2) An additional ten (10) feet of building height shall be allowed when at least 15% of dwelling units on site are deed restricted to be affordable relative to 80% the Milwaukee County Area Median Household Income. A minimum of 1 total dwelling unit shall be provided on site to qualify.											

**15-3-02. Calculating Dimensional Standards**

- A **Lot Width.** Lot width shall be measured as the distance between the side lot lines of a lot at right angles to its depth along a straight line parallel to the front lot line
- B **Lot Widths for Lots that Abut a Cul-de-Sac.** The lot width of all lots which abut a cul-de-sac may be reduced by a maximum of twenty (20) percent of the required lot width for the district in which it is located, as measured from the front lot line
- C **Yard Setbacks.**
  - 1 A required yard setback shall be measured as the horizontal distance from the center point of the applicable lot line into the interior of the lot for the minimum distance specified in Table 15-3 0100(A) or Table 15-3 0100(B)
  - 2 The span of a yard setback shall be measured as follows
    - a **Front Yard.** From the interior side lot line to the other interior side lot line or street side lot line as applicable
    - b **Street Side Yard** From the front yard setback line to the rear lot line
    - c **Interior Side Yard** From the front yard setback line to the rear yard setback line
    - d **Rear Yard**
      - I From the interior side lot line to the other interior side lot line, or
      - II From the interior side lot line to the street side yard setback line



- D **Height.** Building height shall be the vertical distance measured from the mean elevation of the finished lot grade along the building frontage to the highest elevation of the roof

### 15-3-03. Exceptions to Bulk and Dimensional Standards

- A **Height Exceptions.** The following structures may exceed the height limitations established in Table ##-### and ##-### as follows

- 1 **Architectural Projections.** Architectural projections such as antennae, spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys may exceed the height limit for the district to provide for projections usual and customary to the proposed use
- 2 **Special Structures.** Structures such as elevator penthouses, mechanical penthouses, gas tanks, grain elevators, observation towers, and scenery lofts, manufacturing equipment and necessary appurtenances, cooling towers, fire towers, substations, and smoke stacks are exempt from the height limitations of this UDO provided the structures are an integral part of and do not detract from the design of the principal structure as approved by the Plan Commission and/or Architectural Board
- 3 **Essential Services, Utilities, Water Towers, and Electric Power and Communication Transmission Lines.** Essential services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this Ordinance. Building-mounted earth station dish antennas shall not exceed the maximum height regulation of the district in which they are located
- 4 **Agricultural Structures.** Agricultural structures, such as barns, silos, windmills, shall not exceed in height twice their distance from the nearest lot line
- 5 **Public or Semipublic Facilities.** Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, and governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yard setbacks are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- 6 **Modification of Other Ordinances and Regulations Not Permitted Under this Division.** Modifications permitted under this Division of this Ordinance do not modify any requirements of federal, State, or local building codes relating to the elements addressed in this Division of this Ordinance

- B **Yard Setback Exceptions.** Obstructions into the yard setback requirements specified in Section ##-### and ##-### may be permitted as follows

- 1 **Uncovered Stairs, Landings, and Fire Escapes.** Uncovered stairs, landings, and fire escapes may project a maximum of six (6) feet into a required yard setback and shall not be closer than three (3) feet to any lot line
- 2 **Architectural Projections.** Architectural projections including chimneys, flues, sills, eaves, belt courses, and ornamental features, may project a maximum of two (2) feet into a required yard setback. Bay windows may project a maximum of three (3) feet into a required yard setback
- 3 **Accessibility Structures.** ADA accessible wheelchair ramps and other features designed to promote universal access on the subject site may project into a required yard setback but shall be located at least three (3) feet from any lot line
- 4 **Utility and Electric Power and Communication Transmission Lines.** Utility and electric power and communication transmission lines are exempt from the yard setback and distance requirements of this Ordinance
- 5 **Terraces, Patios, Uncovered Decks.** Terraces, patios, uncovered decks, and ornamental features which do not extend more than three (3) feet above or below the adjacent grade may project a maximum of ten (10) feet into any required yard setback, however any such structure shall be setback at least five (5) feet from any property line

- 6 **Lampposts and Flagpoles** Lampposts with a maximum height of ten (10) feet and flag poles with a maximum height of thirty five (35) feet may project into required yard setbacks, however any such structure shall be set back at least five (5) feet from any property line
- 7 **Air Conditioning Units** Air conditioning units may project up to five (5) feet into a required side or rear yard setback but shall not be closer than five (5) feet from any property line
- 8 **Rainwater Harvesting Structures** Rainwater harvesting structures with two-hundred (200) gallons or less of storage may project into a required side or rear yard setback but shall not be closer than five (5) feet from any property line  
Rainwater harvesting structures with over two-hundred (200) gallons of capacity meet the location standards for accessory structures in Section ##-##-##
- 9 **Below-Ground Stairways and Windows** Stairways and windows that are constructed entirely below the site's finished grade may project into any required yard setback
- 10 **Fences** Fences may be located in required yard setbacks as specified in Section 15-6-##

### 15-3-04. Permitted, Limited, Conditional, and Temporary Uses.

A The following key shall be used in the interpretation of Table 15-3 0400(B) and (C)

- 1 **Permitted Uses** Uses which are marked as "P" in the table shall be allowed subject to all applicable regulations of this UDO
- 2 **Conditional Uses** Uses which are marked as "C" in the table shall be allowed upon the approval of a Conditional Use Permit as detailed in Section ##-##-##
- 3 **Temporary Uses** Uses which are marked "T" in the tables shall be allowed upon the approval of a Temporary Use Permit as detailed in Section ##-##-##
- 4 **Prohibited Uses** A blank space in the tables indicates that a use type is not allowed in the respective zoning district unless it is otherwise expressly allowed by other regulations of this UDO
- 5 **Uses Not Listed** If a proposed use is not listed in the tables, the Zoning Administrator shall determine if the use is substantially similar to a use listed on the tables per Section ##-##-## If it is, they shall treat the use in the same manner as the substantially similar use If not, the use shall be regarded as prohibited
- 6 **Additional Regulation** If a use has use specific standards they are highlighted in green Use specific standards shall apply to permitted, conditional, and temporary uses

**B Permitted, Conditional, and Temporary Uses in Residential Districts.**

**Table 15-3-04(B): Permitted, Conditional, and Temporary Uses in Residential Districts**

Use	R-C	R-SE	R-SR	R-MF	R-V
<b>Residential</b>					
	R-C	R-SE	R-SR	R-MF	R-V
Community Living, 1-15 Persons	P	P	P	P	P
Community Living, 16 + Persons	C	C	C	C	C
Single-Family	P	P	P		P
Mobile/Manufactured Home Park, Existing Prior to this UDO				P	
Duplex			C	P	
Townhome				P	
Multifamily Building				P	
Multifamily Complex				P	
Senior Housing, Assisted Living	C	C	C	C	C
Senior Housing, Nursing Care	C	C	C	C	C
Senior Housing, Total Life Care				C	
<b>Institutional</b>					
Educational Facility	C	C	C	C	C
<b>Place of Assembly</b>					
Noncommercial Place of Assembly, ##### sqft or less	P	P	P	P	P
Noncommercial Place of Assembly, more than ##### sqft	C	C	C	C	C
<b>Recreation, Amusement, and Lodging</b>					
Lodging House	P	P	P	P	P
Short Term Rental	P	P	P	P	P
<b>Agricultural</b>					
Community Garden	P	P	P	P	P
Crop Production	C				
Indoor Agriculture	C				
Telecommunications Tower	C	C	C	C	C
<b>Accessory</b>					
Accessory Dwelling, Detached/Attached	C	C	C	C	C
Accessory Dwelling, Internal	P	P	P	P	P
Accessory Structure	P	P	P	P	P
Artisan Workshop	P	P	P	P	P
Electric Vehicle Charging Station	P	P	P	P	P
Home Based Business	P	P	P	P	P
Solar Energy Collection System, canopy	P	P	P	P	P
Solar Energy Collection System, ground mounted	P	P	P	P	P
Solar Energy Collection System, roof mounted	P	P	P	P	P
<b>Temporary</b>					
Construction Related	T	T	T	T	T
Food Truck	T	T	T	T	T

C Permitted, Conditional, and Temporary Uses in Nonresidential and Mixed-Use Districts.

**Table 15-3-04(C): Permitted, Conditional, and Temporary Uses in Nonresidential and Mixed-Use Districts**

Use	B-N	B-G	B-R	B-MU	B-SM	B-P	LI	A	A-P	P	I	L	FW
<b>Residential</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Single-Family								P	P				
Multifamily, above ground floor only	P	P	P	P	P								
<b>Institutional</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Educational Facility											C		
Governmental Uses											C		
Health Care Facility	P	P	P	P			P				C		
Cemetery											C		
<b>Place of Assembly</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Indoor Commercial Place of Assembly, ##### sqft or less	P	P	P	P	P			C	C	C	P		
Indoor Commercial Place of Assembly, more than ##### sqft	C	P	P	P	C			C	C	C	P		
Outdoor Commercial Place of Assembly	C	C	C	C	C			C	C	C	P		
Noncommercial Place of Assembly, ##### sqft or less								C	C	C	P		
Noncommercial Place of Assembly, more than ##### sqft								C	C	C	P		
<b>Recreation, Amusement, and Lodging</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Campground								C	C				P
Lodging House								P	P				
Hotel	C	C	C	C									
Motel		C											
Recreation Area													P
Short-Term Rental					C			P	P				
<b>Retail</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Adult Establishment							C						
General Retail, ##### sqft or less	P	P	P	P	P								
General Retail, more than ##### sqft	S	P	P	P	C								
Multitenant Shopping Center	C	C	C	C									
Wholesale Establishment							C						
<b>Service</b>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>
Animal Boarding Facility/Kennel and/or Veterinary Service	C	C					C	C					
General Service, ##### sqft or less	P	P	P	P	P								
General Service, more than ##### sqft	S	P	P	P	C	P							
Financial Institution	P	P	P	P		P							
Funeral Home	C	C											
Office, above ground floor only				P	P								
Office, ##### sqft or less	P	P	P	P	P	P							
Office, more than ##### sqft	P	P	P	P		P							

Office Complex/Business Park						P								
<i>Eating and Drinking</i>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>	
Bar/Tavern	P	P	P	P	P									
Brewery/Winery/Distillery							C							
Brewery/Winery/Distillery Tasting Room	P	P	P	P	P									
Food Truck Court	C	C	C	C	C	C								
Micro Brewery/Winery/Distillery		P	P	P	P									
Restaurant	P	P	P	P	P									
<i>Vehicle Related</i>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>	
Auto Sales/Rental and Service		C	C				P							
Carwash		C	C				P							
Major Automotive Repair			C				P							
Minor Automotive Repair			P				P							
Vehicle Fuel Sales		C	C				P							
<i>Agricultural</i>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>	
Community Garden								P	P					
Crop Production								P	P					
Animal Husbandry								P	P					
Indoor Agriculture							P	P	P					
Nursery Retail	P	P	P					P	P					
Nursery Wholesale								P	P					
<i>Industrial</i>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>	
Artisan Manufacturing	P	P	P	P	P									
Brewery/Winery/Distillery							P	C	C					
Composting Facility							C	C	C					
Distribution Facility							C							
Equipment Rental, Sales, and Service	P	P	P				P							
Extractive Industry							C	C						
Heavy Industry							C						P	
Home Improvement Center/ Lumberyard	P	P	P				P							
Landfill												C		
Light Industry							C							
Recycling Facility											C	C		
Salvage Yard														
Self-Service Storage Facility			C				C							
Solid Waste Facility							C					C		
Storage Yard							C							
Warehouse							C							
<i>Utility and Transportation</i>	<i>B-N</i>	<i>B-G</i>	<i>B-R</i>	<i>B-MU</i>	<i>B-SM</i>	<i>B-P</i>	<i>LI</i>	<i>A</i>	<i>A-P</i>	<i>P</i>	<i>I</i>	<i>L</i>	<i>FW</i>	
Airport/ Heliport											C			
Helistop		C	C	C		C					C			
Loading Areas, Parking Areas, and Landing Strips As a Principal Use													P	
Railroad Use											C			



- a **Width** Ten (10) feet
  - b **Depth** Eight (8) feet
  - c **Height** Eight (8) feet
- 2 **Storefront.** The primary façade of the building shall adjoin the required minimum front setback. Accordion-style windows and doors or other operable windows are encouraged. The following standards shall apply to shopfronts
- a **Window Area** Sixteen (16) square feet
  - b **Window Width.** Three (3) feet
  - c **Window Height.** Four (4) feet
  - d **Sill Height.** Three (3) feet
- C **Entrance Orientation** Main entrances to buildings shall be oriented toward the primary street adjoining the subject property. Secondary entrances are encouraged along secondary streets or along building frontages not adjoining a street
- D **Parking Location** Off-street parking spaces and lots shall be located to the rear or interior side of the principal building

### 15-3-06. FF Floodfringe District and GFP General Floodplain District.

#### A **Statutory Authorization, Finding of Fact, Statement of Purpose, Title, and General Provisions**

- 1 This ordinance is adopted pursuant to the authorization in Wisconsin Statutes Annotated s. 61.35 and 62.23 and the requirements in s. 87.30
- 2 Uncontrolled development and use of the floodplains and rivers within the City of Franklin would impair the public health, safety, convenience, general welfare, and tax base
- 3 This ordinance is intended to regulate floodplain development in order to
  - a Protect life, health and property,
  - b Minimize expenditures of public funds for flood control projects,
  - c Minimize rescue and relief efforts undertaken at the expense of the taxpayers,
  - d Minimize business interruptions and other economic disruptions,
  - e Minimize damage to public facilities in the floodplain,
  - f Minimize the occurrence of future flood blight areas in the floodplain,
  - g Discourage the victimization of unwary land and homebuyers,
  - h Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners, and
  - i Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain
- 4 This Section shall constitute, for statutory purposes, the Floodplain Zoning Ordinance for the City of Franklin, Wisconsin
- 5 **General Provisions.**

- a **Areas to be Regulated** This Section regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, VE, V1-30, or V on the Flood Insurance Rate Map
  - b **Official Maps and Revisions** Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, VE, V1-30, or V on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd (i) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd (b) below. These maps and revisions are on file in the office of the Planning Manager
  - c **Official Maps**
    - i Flood Insurance Rate Map (FIRM) panel number 55079C0144E, effective on 09/26/2008, number 55079C0142E, effective on 09/26/2008, number 55079C0161E, effective on 09/26/2008, number 55079C0163E, effective on 09/26/2008 [NOTE CHECK WITH GIS MANAGER & SEWRPC to ensure all are included & correct, from <https://msc.fema.gov/portal/search?AddressQuery=Franklin%2C%20Wisconsin#searchresultsanchor> ]
- 6 **Establishment of Floodplain Zoning Districts** The flood hazard areas regulated by this ordinance are divided into districts as follows and collectively shall be known as the "Floodplain Districts"
- a The **Floodway District (FW)**, is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM [see Section 5(c)ii) above], or within A Zones shown on the FIRM when determined according to Wisconsin Statutes Annotated s 5 1(5)
  - b The **Floodfringe District (FF)** is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s 5 1(5), within A Zones shown on the FIRM
  - c The **General Floodplain District (GFP)** is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM
- 7 **Locating Floodplain Boundaries**
- a Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subsections (7)(d) or (7)(e) below. If a significant difference exists, the map shall be amended according to Section [ XX], Amendments
  - b The Zoning Administrator may rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to [SECTION XX] 7 3(3) and the criteria in (a) and (b) below
  - c Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to [sXX] Amendments
  - d If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies
  - e Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale
- 8 **Removal of Lands from Floodplain.**



- a Compliance with the provisions of this section shall not be grounds for removing land from the floodplain unless the affected land is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s 8 0 Amendments
- b The delineation of any of the Floodplain Districts may be revised by the City of Franklin where natural or man-made changes have occurred and/or where more detailed studies have been conducted However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency A completed Letter of Map Revision is a record of this approval The Zoning Administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met
  - i The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation, and
  - ii the fill must be contiguous to land outside the floodplain, Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F
- c Removal of lands from the floodplain may also occur by operation of §87 30(1)(e), Wis Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C F R 70

#### 9 Compliance.

- a No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations
- b Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with s 9 0
- c Floodplain development permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Zoning Administrator Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s 9 0

#### 10 Municipalities and State Agencies Regulated.

- a Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits State agencies are required to comply if s 13 48(13), Stats , applies
- b The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s 30 2022, Stats , applies Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards
- c If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s 30 2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply
  - i The City provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s 30 123(6)(d),
  - ii The capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source

- iii If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the City in the analysis of the project site

#### 11 Abrogation and Greater Restrictions

- a This Section supersedes all the provisions of the this UDO which relate to floodplains. A more restrictive provision shall continue in full force and effect to the extent of the greater restrictions, but not otherwise
- b This Section is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this Section shall prevail

- 12 **Interpretation** In their interpretation and application, the provisions of this Section are the minimum requirements liberally construed in favor of the City of Franklin, and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this Section, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Section or in effect on the date of the most recent text amendment to this Section.

- 13 **Warning and Disclaimer of Liability** The flood protection standards in this Section are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This Section does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This Section does not create liability on the part of, or a cause of action against, the City of Franklin, or any officer or employee thereof, for any flood damage that may result from reliance on this Section.

- 14 **Severability** Should any portion of this Section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected.

### B General Standards Applicable to All Floodplain Districts.

#### 1 Applicability

- a The City of Franklin Zoning Administrator shall review all permit applications to determine compliance with the provisions of this Section
- b If a proposed building site is in a Floodplain District as defined in this Section, all new construction and substantial improvements shall
  - i Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
  - ii Be constructed with flood-resistant materials,
  - iii Be constructed by methods and practices that minimize flood damages, and
  - iv Be constructed in a manner wherein mechanical and utility equipment is elevated to or above the flood protection elevation
- c If a subdivision or other proposed new development is in a Floodplain District as defined in this Section, the Zoning Administrator shall assure that
  - i Such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the Floodplain District,
  - ii Public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - iii Adequate drainage is provided to reduce exposure to flood hazards

- d All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s 7 1(2)

## 2 Hydraulic and Hydrologic Analyses

- a No development within a Floodplain District shall
  - i Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height, or
  - ii Cause any increase in the regional flood height due to floodplain storage area lost
- b The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s 8 0 Amendments are met

## 3 Watercourse Alterations

- a No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Zoning Administrator has notified in writing all adjacent municipalities, the Wisconsin Department of Natural Resources, and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of Subsection B 2 above must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained
- b As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s 8 0 Amendments, the City of Franklin shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process

- 4 **Applicability of Chapter 30 and 31, Wisconsin Statutes, Development** Development which requires a permit from the Department, under Chapters 30 and 31, Stats, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to this Section are made in accordance with s 8 0 Amendments

- 5 **Public or Private Campgrounds** Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions

- a The campground is approved by the Wisconsin Department of Agriculture, Trade and Consumer Protection,
- b A land use permit for the campground can properly be issued by the Zoning Administrator,
- c The character of the river system and the campground elevation are such that a 72- hour warning of an impending flood can be given to all campground occupants,
- d There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, officials of the City of Franklin (including but not the City's emergency government coordinator and the chief law enforcement official) which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation,
- e This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub (4) - to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Agriculture, Trade and Consumer Protection and all other applicable regulations

- f All mobile recreational vehicles placed on site must meet one of the following
  - i Be fully licensed, if required, and ready for highway use, or
  - ii Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours, or
  - iii Meet the requirements in either s 3 0, 4 0, 5 1, or 5 3 for the floodplain district in which the structure is located,
- g A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions
- h All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which shall be kept on file at the campground Such authorization shall allow placement of a camping unit consistent with 2 4(6) and shall ensure compliance with all the provisions of this section,
  - i The City of Franklin shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section,
  - j The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued, and
- k All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation
- l Standards for structures in a campground
  - i All structures must comply with the applicable requirements in ss 3 0, 4 0, 5 1, or 5 3 for the floodplain district in which the structure is located,
  - ii A portable deck or landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with subsections (a) through (j) above Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood
- m Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the City of Franklin pursuant to subsection 5(d) and 5(e) above
- n Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the City pursuant to subsection 5(d) and 5(e) above

- 6 A land use permit shall be obtained as provided under 7 1(2) before any development, repair, modification or addition to an existing structure, or change in the use of a building or structure, including sewer and water facilities, may be initiated

### C Floodway District (FW)

- 1 **Applicability** This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s 5 1(5)
- 2 **Permitted Uses** The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if
- a The uses are not prohibited by any other provision of these Regulations,
  - b The standards in this Subsection C are met, and
  - c All permits or certificates have been issued in accordance with section 7 1
  - d Permitted Uses
    - i Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting
    - ii Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips
    - iii Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s 3 3(4)
    - iv Uses or structures accessory to open space uses or classified as historic structures that comply with s 3 3 and 3 4
    - v Extraction of sand, gravel or other materials that comply with s 3 3(4)
    - vi Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chapters 30 and 31, Wisconsin Statutes
    - vii Public utilities, streets and bridges that comply with s 3 3(3)
    - viii Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter SPS 383, Wisconsin Administrative Code
    - ix Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code
    - x Wastewater treatment ponds or facilities permitted under Sections NR 110 15(3)(b), Wisconsin Administrative Code
    - xi Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway, which development complies with the regulations for the floodplain area occupied
- 3 **Standards for Developments in the Floodway**
- a Any development in the floodway shall comply with Subsection B above and have a low flood damage potential

- b Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to Subsection B 2 and 7 1(2)(c) The analysis must be completed by a professional engineer registered in the state of Wisconsin
  - c Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd 3 3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in Subsection A(8) above
- 4 **Structures** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria
- a Not designed for human habitation
  - b Does not have a high flood damage potential
  - c Is constructed to minimize potential flood damage,
  - d Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards
    - i The lowest floor is elevated to or above the regional flood elevation and is dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water, and completely dry to the flood protection elevation without human intervention during flooding,
    - ii Has structural components capable of meeting all provisions of Subsection 6, Certification below and,
    - iii Has certification by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Subsection 6, Certification, below
  - e Shall be anchored to resist flotation, collapse, and lateral movement
  - f Mechanical and utility equipment are elevated to or above the flood protection elevation, and
  - g Does not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood
- 5 **Design for Automatic Entry of Floodwaters** For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets Subsection (4)(a) through (4)(e) above, and meets or exceeds the following standards
- a The lowest floor must be elevated to or above the regional flood elevation,
  - b a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding,
  - c the bottom of all openings shall be no higher than one foot above the lowest adjacent grade, openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open
  - d The use must be limited to parking, building access or limited storage
- 6 **Certification** Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood

- a Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup,
  - b Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3 4(4) and 3 4(5),
  - c Subsurface drainage systems to relieve external pressures on foundation walls and basement floors,
  - d Cutoff valves on sewer lines or the elimination of gravity flow basement drains, and
  - e Placement of utilities to or above the flood protection elevation
- 7 **Public Utilities, Streets, and Bridges** Public utilities, streets and bridges may be allowed by permit, if
- a Adequate floodproofing measures are provided to the flood protection elevation, and
  - b Construction meets the development standards of s 2 1
- 8 **Fills or Deposition of Materials** Fills or deposition of materials may be allowed by permit, if
- a The requirements of s 2 1 are met,
  - b No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch 30, Stats , and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U S C 1344 has been issued, if applicable, and all other requirements have been met,
  - c The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading, and
  - d The fill is not classified as a solid or hazardous material
- 9 **Prohibited Uses.** All uses not listed as permitted uses in Subsection C(2) above are prohibited, including the following uses
- a Habitable structures, structures with high flood damage potential, and structures not associated with permanent open-space uses,
  - b Storage of materials that are buoyant, flammable, explosive, or potentially injurious to property, water quality, or human, animal, plant, fish or other aquatic life,
  - c Uses not in harmony with or detrimental to uses permitted in the adjoining districts,
  - d Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department- approved campgrounds that meet the applicable provisions of City of Franklin ordinances and Chapter SPS 383, Wisconsin Administrative Code
  - e Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of City of Franklin ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code
  - f Any solid or hazardous waste disposal sites,
  - g Any wastewater treatment ponds or facilities, except those permitted under Sections NR 110 15(3)(b), Wisconsin Administrative Code,
  - h Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied

**D Floodfringe District (FF)**

- 1 **Applicability** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s 5 1(5)
- 2 **Permitted Uses** Any structure, land use, or development is allowed in the Floodfringe District if the standards in s 4 3 are met, the use is not prohibited by the City of Franklin Land Development Regulations, or any other ordinance or regulation of the City of Franklin, and all permits or certificates specified in s 7 1 have been issued
- 3 **Standards for Development in the Floodfringe District** The provisions of Subsection (C) above shall apply in addition to the following requirements, according to the proposed use Any existing structure in the Floodfringe District must meet the requirements of s 6 0, Nonconforming Uses
  - a **Residential Uses** Any existing structure in residential use in the Floodfringe District must meet the requirements of s 6 0 Nonconforming Uses Any structure for residential use, including a manufactured home, which is to be newly constructed or moved into the Floodfringe District, shall meet or exceed the following standards
    - i All new construction, including placement of manufactured homes, and all substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill The fill around the structure shall be one foot or more above the regional flood elevation for an area extending at least 15 feet beyond the limits of the structure No area may be removed from the Floodfringe District unless the resulting condition can be shown to meet s 1 5(5)
    - ii Notwithstanding Subsection (D)(4)(a) above, a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy No floor of any kind is allowed below the regional flood elevation
    - iii Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (d)(1) through (d)(2) below
    - iv In developments where existing street or sewer line elevations make compliance with Subsection (4)(c) above impractical, the City of Franklin may permit new development and substantial improvements where roads are below the regional flood elevation, if
      - a) The City of Franklin Zoning Administrator has secured written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event, or
      - b) The City of Franklin has adopted and in place a DNR-approved emergency evacuation plan applicable to the site that follows acceptable hazard mitigation planning guidelines
  - b **Accessory Structures and Uses** In addition to meeting the provisions of Section B, General Standards, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation
  - c **Commercial Uses** In addition to meeting the provisions of Section B, General Standards, any commercial structure which is erected, altered or moved into the Floodfringe District shall meet the requirements of s 4 3(1) Subject to the requirements of s 4 3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property
  - d **Manufacturing and Industrial Uses** In addition to meeting the provisions of Section B, General Standards, any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 7 5 Subject to



the requirements of s 4 3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property

- e **Storage of Materials** Materials that are hazardous, buoyant, flammable, explosive, or potentially injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s 7 5 Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding
- f **Public Utilities, Streets, and Bridges** All public utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans In addition, the following criteria shall apply
  - i When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if the proposed improvements are designed to comply with s 7 5
  - ii Minor roads or non-essential utilities may be constructed at lower elevations if ~~they are~~ designed to withstand flood forces to the regional flood elevation
- g **Sewage Systems** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s 7 5(3), to the flood protection elevation and meet the provisions of all City of Franklin standards and Chapter SPS 383, Wisconsin Administrative Code
- h **Wells** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s 7 5(3), to the flood protection elevation and shall meet the provisions of Chapters NR 811 and NR 812, Wisconsin Administrative Code
- i **Solid Waste Disposal Sites Prohibited** Disposal of solid or hazardous waste is prohibited in floodfringe areas
- j **Deposition of Material** Any deposition of material must meet all the provisions of this Section
- k **Manufactured Homes**
  - i Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities
  - ii In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall
    - a) have the lowest floor elevated to the flood protection elevation, and
    - b) be anchored so that the manufactured home does not float, collapse or move laterally during a flood
  - iii Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s 4 3(1)
- l **Mobile Recreational Vehicles** A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions All mobile recreational vehicles must be on site for less than 180 consecutive days and be either
  - i fully licensed and ready for highway use, or
  - ii shall meet the elevation and anchoring requirements in s 4 3 (11)(b) and (c)

## E General Floodplain District (GFP)

- 1 **Applicability** The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s 1 5(2)(a)
- 2 **Floodway Boundaries** For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in s 1 5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s 5 1(5)
  - a If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s 3 0
  - b If the development is located entirely within the floodfringe, the development is subject to the standards of s 4 0
- 3 **Permitted Uses** Pursuant to s 5 1(5) for any application for development, the Zoning Administrator shall determine whether proposed use is located within the floodway or floodfringe Those uses permitted in the Floodway (Section C) and Floodfringe (Section D) Districts are allowed within the General Floodplain District, according to the standards of s 5 1(4), provided that all permits or certificates required under s 7 1 have been issued
- 4 **Standards for Development in the General Floodplain District** Any development within the floodway, as determined pursuant to 5 1(5), shall comply with the provisions of Section C, Floodway Any development within the floodfringe, as determined pursuant to Section 5 1(5), shall comply with the provisions of Section D, Floodfringe
  - a New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated
    - i to or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade, or
    - ii if the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade
  - b New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation
  - c In AO/AH zones, adequate drainage paths shall be provided to guide floodwaters around structures
  - d All development in zones AO and zone AH shall meet the requirements of s 4 0 applicable to flood fringe areas
- 5 **Determination of Floodway and Floodfringe Limits** Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the Zoning Administrator shall
  - a Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures, and the flood zone as shown on the FIRM
  - b Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries
    - i A Hydrologic and Hydraulic Study as specified in s 7 1(2)(c)
    - ii A plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations, size, location and layout of all proposed and existing structures on the site, location and elevations of streets, water supply, and sanitary facilities, soil types and other pertinent information, and
    - iii Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities

## F Non-Conforming Uses

### 1 Applicability

- a The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Section 87 30, Wisconsin Statutes, Sections NR 116 12-14, Wisconsin Administrative Code, and 44 CFR 59-72
- b These standards shall apply to all modifications or additions to any nonconforming use or structure, and to the use of any structure or premises which was lawful before the passage of this Section or any amendment thereto
- c A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created

As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, the City of Franklin shall develop a list of those nonconforming buildings, their present equalized assessed value and a list of the costs of those activities associated with changes to those buildings

### 2 Continuation of Use. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Section may continue subject to the following conditions

- a No modifications or additions to a nonconforming use or structure shall be permitted unless such modifications or additions comply with applicable provisions of this Section. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use
  - i Maintenance is not considered a modification, maintenance shall include painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities
  - ii Any costs associated with the repair of a damaged structure shall not be considered maintenance
- b The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure shall not be considered an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure
- c If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, the non-conforming use or use of the non-conforming structure is no longer permitted. Any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this Section

The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent,

- d No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed fifty (50) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s 4 3(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph,
- e No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the

applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s 4 3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.

- f. If on a per event basis the total value of the work being done under (d) and (e) above equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s 4 3(1).
- g. Except as provided in subdivision (h) below, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, re-constructed, or rebuilt unless the use and the structure meet the current requirements of this Section. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- h. For nonconforming buildings that are substantially damaged or destroyed by a non-flood event, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met and all required permits have been granted prior to the start of construction.

**i. Residential Structures** All such residential structures

- a) Shall have the lowest floor, including basement, elevated to or above the flood protection elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s 7 5(2).
- b) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s 5 1(4).
- f) In AO Zones, have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

**ii. Nonresidential Structures** All such non-residential structures

- a) Shall meet the requirements of s 6 1(2)(h)1a-f.
- b) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation, or, together with attendant utility and sanitary facilities, shall meet the standards in s 7 5 (1) or (2).
- c) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s 5 1(4).
- d) A nonconforming historic structure may be altered if the alteration does not preclude the structure's continued designation as a historic structure, the alteration will comply with s 3 3 (1), flood resistant.

materials are used, and construction practices and floodproofing methods that comply with s 7 5 are used Repair or rehabilitation of historic structures shall be exempt from the development standards of s 6 1 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure

### 3 Floodway District.

- a No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition
  - i Has been granted a permit or variance in conformance with all ordinance requirements,
  - ii Meets the requirements of s 6 1,
  - iii Shall not increase the obstruction to flood flows or regional flood height;
  - iv Any addition to the existing structure shall be floodproofed, pursuant to s 7 5, by means other than the use of fill, to the flood protection elevation, and
  - v If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply
    - a) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area The lowest part of the opening can be no more than 12 inches above the adjacent grade,
    - b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials,
    - c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation, and
    - d) The use must be limited to parking, building access or limited storage
  - vi No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s 7 5(3) and Chapter SPS 383, Wisconsin Administrative Code
  - vii No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s 7 5(3) and Chapters NR 811 and NR 812, Wisconsin Administrative Code
- b No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all City of Franklin ordinances, s 7 5(3) of this Section, and Chapter SPS 383, Wisconsin Administrative Code
- c No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the

applicable requirements of all City of Franklin ordinances, s 7 5(3), and Chapters NR 811 and NR 812, Wisconsin Administrative Code

#### 4 Floodfringe District

- a No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s 4 3 except where s 6 3(2) is applicable
- b Where compliance with the provisions of subd (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Zoning and Building Appeals, using the procedures established in s 7 3, may grant a variance from those provisions of subd (1) for modifications or additions using the criteria listed below Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if all of the following are met
  - i No floor is allowed below the regional flood elevation for residential or commercial structures,
  - ii Human lives are not endangered,
  - iii Public facilities, such as water or sewer, shall not be installed,
  - iv Flood depths shall not exceed two feet,
  - v Flood velocities shall not exceed two feet per second, and
  - vi The structure shall not be used for storage of materials as described in s 4 3(5)
- c All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all City of Franklin ordinances, s 7 5 (3) and Chapter SPS 383, Wisconsin Administrative Code
- d All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Section, s 7 5 (3) and Chapter NR 811 and NR 812, Wisconsin Administrative Code

#### G Administration

##### 1 Zoning Administrator; Land Use Permits; Certificates of Compliance

- a Duties and Powers The Zoning Administrator is authorized to administer this Section and shall have the following duties and powers
  - i Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications
  - ii Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate
  - iii Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred
  - iv Keep records of all official actions such as
    - a) All permits issued, inspections made, and work approved,
    - b) Documentation of certified lowest floor and regional flood elevations,
    - c) Floodproofing certificates

- d) Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments
- e) All substantial damage assessment reports for floodplain structures in floodplain districts
- f) Lists of nonconforming structures and uses
- v Submit copies of the following items to the Department of Natural Resources Regional office
  - a) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments,
  - b) Copies of case-by-case analyses and other required information
  - c) Copies of substantial damage assessments performed and all related correspondence concerning the assessments
- vi Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department of Natural Resources Regional office
- vii Submit copies of amendments to the FEMA Regional office
- b **Land Use Permit** A land use permit shall be obtained before any development, repair, modification or addition to an existing structure, or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include
  - i **General Information**
    - a) Name and address of the applicant, property owner and contractor,
    - b) Legal description, proposed use, and whether it is new construction or a modification,
  - ii **Site Development Plan.**
    - a) A site plan drawn to scale shall be submitted with the permit application form and shall contain
      - (i) Location, dimensions, area and elevation of the lot,
      - (ii) Location of the ordinary highwater mark of any abutting navigable waterways,
      - (iii) Location of any structures with distances measured from the lot lines and street center lines,
      - (iv) Location of any existing or proposed on-site sewage systems or private water supply systems,
      - (v) Location and elevation of existing or future access roads,
      - (vi) Location of floodplain and floodway limits as determined from the official floodplain zoning maps,
      - (vii) The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD),
      - (viii) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s 3 0 or 4 0 are met, and

- (ix) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s 2 1 This may include any of the information noted in s 3 3(1)

### iii Hydraulic and Hydrologic Studies

- a) All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin The study contractor shall be responsible for the technical adequacy of the study All studies shall be reviewed and approved by the Wisconsin Department of Natural Resources
  - (i) **In Zone A floodplains and in AE zones within which a floodway is not delineated**
    - 1 **Hydrology** The appropriate method shall be based on the standards in Chapter NR 116 07(3), Wisconsin Administrative Code, *Hydrologic Analysis Determination of Regional Flood Discharge*
    - 2 **Hydraulic modeling** The regional flood elevation shall be based on the standards in Chapter NR 116 07(4), Wisconsin Administrative Code, *Hydraulic Analysis Determination of Regional Flood Elevation* and the following
      - a Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study
      - b Channel sections must be surveyed
      - c A minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping
      - d A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location
      - e The most current version of HEC-RAS shall be used
      - f A survey of bridge and culvert openings and the top of road is required at each structure
      - g Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet
      - h Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices
      - i The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies The height difference between the proposed flood profile and the existing study profiles shall be no more than 0 00 feet.



- (ii) **Mapping** A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway
- 1 If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation
  - 2 If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided
- (iii) **In Zone AE Floodplains:**
- 1 **Hydrology** If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Chapter NR 116 07(3), Wisconsin Administrative Code, *Hydrologic Analysis Determination of Regional Flood Discharge*
  - 2 **Hydraulic model** The regional flood elevation shall be based on the standards in Chapter NR 116 07(4), Wisconsin Administrative Code, *Hydraulic Analysis Determination of Regional Flood Elevation* and the following
    - a **Duplicate Effective Model** The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot
    - b **Corrected Effective Model** The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review
    - c **Existing (Pre-Project Conditions) Model** The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model
    - d **Revised (Post-Project Conditions) Model** The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions
    - e All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes
    - f Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated
  - 3 **Mapping** Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions

- a Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans
  - b Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised
  - c Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries
  - d If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications
  - e The revised floodplain boundaries shall tie into the effective floodplain boundaries
  - f All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme
  - g Both the current and proposed floodways shall be shown on the map
  - h The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map
- IV **Expiration** All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.
- c **Certificate of Compliance** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- i The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Section,
  - ii Application for such certificate shall be concurrent with the application for a land use permit,
  - iii If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed,
  - iv The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a Wisconsin registered professional engineer or architect that the requirements of s. 7.5 are met.
  - v Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by a registered Wisconsin professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.

- vi Where applicable pursuant to s 5 1(4), the applicant must submit certifications by a Wisconsin registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s 5 1(4)
  - d **Other Permits** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U S Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U S C 1344
- 2 **Plan Commission; Role and Responsibilities.**
- a The Plan Commission of the City of Franklin shall, with respect to this Section
    - i Oversee the functions of the office of the zoning administrator, and
    - ii Review and advise the Common Council body on all proposed amendments to this ordinance, maps and text, and
    - iii Publish adequate notice pursuant to Chapter 985, Wisconsin Statutes, specifying the date, time, place and subject of any public hearing
  - b The Plan Commission of the City of Franklin shall not, with respect to this Section
    - i Grant variances to the terms of the ordinance in place of action by the Board of Zoning and Building Appeals, or
    - ii Amend the text or zoning maps in place of official action by the governing body
- 3 **Board of Zoning and Building Appeals; Role and Responsibilities.** The Board of Zoning and Building Appeals established pursuant to Section 62 23(7)(e) Wisconsin Statutes is hereby authorized or shall be appointed to act for the purposes of this Section. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator shall not be the secretary of the Board
- a **Powers and Duties** The Board of Zoning and Building Appeals shall
    - i **Appeals** - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Section,
    - ii **Boundary Disputes** - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map, and
    - iii **Variances** - Hear and decide, upon appeal, variances from the ordinance standards
  - b **Appeals to the Board of Zoning and Building Appeals**
    - i **Standing to Appeal** Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.
    - ii **Notice and Hearing for Appeals and Variances.**
      - a) **Notice** The Board shall
        - (i) Fix a reasonable time for the hearing,

- (ii) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing, and
    - (iii) Assure that notice shall be mailed to the parties in interest and the Wisconsin Department of Natural Resources Regional office at least 10 days in advance of the hearing
  - b) **Hearing** Any party may appear in person or by agent. The Board shall
    - (i) Resolve boundary disputes according to s 7 3(3),
    - (ii) Decide variance applications according to s 7 3(4), and
    - (iii) Decide appeals of permit denials according to s 7 4
  - c) **Decision** The final decision regarding the appeal or variance application shall
    - (i) Be made within a reasonable time,
    - (ii) Be sent to the Department of Natural Resources Regional office within ten (10) days of the decision,
    - (iii) Be issued in the form of a written determination signed by the chairman or secretary of the Board,
    - (iv) State the specific facts which are the basis for the Board's decision,
    - (v) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application, and
    - (vi) Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings
- c) **Boundary Disputes** The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries
  - i If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary
  - ii The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board, and
  - iii If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s 8 0 Amendments
- d) **Variance**
  - i The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that
    - a) Literal enforcement of the ordinance will cause unnecessary hardship,
    - b) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises (in which case the ordinance or map must be amended to grant a permit),
    - c) Issuance of the variance will not result in an outcome or precedent contrary to the public interest, and
    - d) The variance is consistent with the purpose of this ordinance as set forth in Subsection A

- ii In addition to the criteria in Subsection (i) above, to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met
  - a) The variance shall not cause any increase in the regional flood elevation,
  - b) The applicant has shown good and sufficient cause for issuance of the variance,
  - c) Failure to grant the variance would result in exceptional hardship,
  - d) Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances, and
  - e) The variance granted is the minimum necessary, considering the flood hazard, to afford relief
- iii A variance shall not
  - a) Grant, extend or increase any use prohibited in the zoning district,
  - b) Be granted for a hardship based solely on an economic gain or loss,
  - c) Be granted for a hardship which is self-created,
  - d) Damage the rights or property values of other persons in the area,
  - e) Allow actions without the amendments to this ordinance or map(s) required in s 8 0, Amendments, or
  - f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure
- iv When a floodplain variance is granted the Board shall notify the applicant in writing that the authorized action may increase risks to life and property and flood insurance premiums could increase up to \$25 00 per \$100 00 of coverage A copy of this notice shall be maintained with the variance record

#### 4 Review of Appeals and Permit Denials.

- a The Board of Zoning and Building Appeals shall review all data related to the appeal including, but not limited to
  - i Permit application data listed in s 7 1(2),
  - ii Floodway/floodfringe determination data in s 5 1(5),
  - iii Data listed in s 3 3(1)(b) in cases where the applicant has not submitted this information to the Zoning Administrator, and
  - iv Other data submitted with the application or submitted to the Board with the appeal
- b For appeals of all denied permits, the Board shall
  - i Follow the procedures of s 7 3,
  - ii Consider recommendations of the Plan Commission, and
  - iii Either uphold the denial or grant the appeal
- c For appeals concerning increases in regional flood elevation the Board shall

- i Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s 8 0 Amendments, or
- ii Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist

## 5 Floodproofing Standards.

- a No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards set forth in ss 2 0, 3 0, 4 0, 5 1, or 5 3
- b For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either
  - i Certified by a registered Wisconsin professional engineer or architect, or
  - ii Meeting or exceeding the following standards
    - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, and
    - b) The bottom of all openings shall be no higher than one-foot above grade, and
    - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that these permit the automatic entry and exit of floodwaters
  - iii Floodproofing measures shall be designed, as appropriate, to
    - a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors,
    - b) Protect structures to the flood protection elevation,
    - c) Anchor structures to foundations to resist flotation and lateral movement,
    - d) Minimize or eliminate infiltration of flood waters,
    - e) Minimize or eliminate discharges into flood waters,
    - f) Placement of Locate essential utilities to or above the flood protection elevation, and
    - g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply
      - (i) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade,
      - (ii) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials,

- (iii) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation, and
- (iv) The use must be limited to parking, building access or limited storage

## H Amendments.

- 1 **General Provisions** Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section H 2 below
  - a **In AE Zones with a mapped floodway**, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s 8 1 Any such alterations must be reviewed and approved by FEMA and the Wisconsin Department of Natural Resources
  - b **In A Zones** increases equal to or greater than 10 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Section, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s 8 1
- 2 **Action by Common Council** The Common Council shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s 8 2 below Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following
  - a Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height,
  - b Any change to the floodplain boundaries and/or watercourse alterations on the FIRM,
  - c Any changes to any other officially adopted floodplain maps listed in s 1 5 (2)(b),
  - d Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain,
  - e Correction of discrepancies between the water surface profiles and floodplain maps,
  - f Any upgrade to a floodplain zoning text required by Section NR 116 05, Wisconsin Administrative Code, or otherwise required by law, or for changes by the City of Franklin, and
  - g All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA
- 3 **Procedures**
  - a Amendments may be made upon petition of any party according to the provisions of Section 62 23, Wisconsin Statutes The petitions shall include all data required by s 5 1(5) and 7 1(2) The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes
  - b The proposed amendment shall be referred to the Plan Commission for a public hearing and recommendation to the Common Council The amendment and notice of Common Council public hearing shall be submitted to the Wisconsin Department of Natural Resources Regional office for review prior to the hearing The amendment procedure shall comply with the provisions of Section 62 23, Wisconsin Statutes
  - c No amendments shall become effective until reviewed and approved by the Wisconsin Department of Natural Resources

- d All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body
- I **Enforcement and Penalties** Any violation of the provisions of this Section by any person shall be unlawful and shall be referred to the City of Franklin attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the City of Franklin, the State of Wisconsin, or any citizen thereof pursuant to Section 87.30, Wisconsin Statutes.



## Article 4. Use-Specific Standards

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### 15-4-01. Residential Use-Specific Standards

#### A Community Living, All Capacities.

- 1 No community living arrangement shall be established within two thousand five hundred (2,500) feet of any other such facility regardless of its capacity
- 2 Foster homes housing four (4) or fewer children and licensed under Sec 48 62, Wis Stats , shall not be subject to these provisions

#### B Duplex.

- 1 Duplexes primary entrances shall be oriented toward the designated front lot line
- 2 A minimum of one (1) of the parking spaces, as specified in Section 16-6-1(E) of this UDO, shall be provided in an attached or detached garage
- 3 Attached garages are encouraged to be located on rear façades. If attached garages are located on the primary façade they shall
  - a Not exceed forty-five (45) percent of the façade's total width,
  - b Be setback a minimum of twenty-five (25) feet from the property line, and
  - c Be recessed from the primary front façade (excluding porches) of the duplex a minimum of five (5) feet

- 4 Exterior building cladding materials shall be time- and weather- tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, precast panels with inlaid or stamped brick texture

**C Townhome.**

- 1 Townhomes shall be oriented with their primary entrances either
  - a Toward the designated front lot line The primary entrance of end unit townhomes on corner lots may be oriented toward the designated front or exterior side lot line
  - b Toward an internal courtyard space The primary entrance of end unit townhomes closest to the designated front lot line shall be oriented toward the designated front lot line
- 2 Individual townhome units should be articulated through the exterior design of the townhome cluster This can be accomplished through dormers, porches, vertical design elements, varying roof forms, or other architectural devices
- 3 The maximum length of a townhome cluster shall be two hundred (200) linear feet
- 4 The siting of the townhome units in a cluster shall be staggered in order to define street edges, entry points, and public gathering spaces
- 5 A minimum of one (1) of the parking spaces, as detailed in Section ##-##-## of this UDO shall be provided in an attached or detached garage
- 6 Attached or detached garages shall be located on rear or side façades, unless otherwise approved
- 7 Exterior building cladding materials shall be time- and weather-tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, precast panels with inlaid or stamped brick texture

**D Multifamily Building.**

- 1 The building's primary façade and principal entrance shall be oriented toward a public street
- 2 A maximum of one (1) curb cut allowing vehicular access to the site shall be permitted per street frontage unless otherwise approved by the Zoning Administrator
- 3 All off-street parking, as specified in Section 16-6-1(E) of this UDO, shall be located in the rear and/or interior side of the primary building Off-street parking located in the interior side yard setback shall be set back a minimum of one (1) foot from the front elevation of the primary building
- 4 ADA compliant pedestrian walkways shall be provided to all building entries and parking areas and shall connect to the sidewalk at the street frontage
- 5 Service areas, dumpsters, utilities and the required nonvegetative screening of these features shall not be visible from rights-of-way
- 6 Multifamily uses shall operate in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation
- 7 All multifamily buildings shall meet the design standards of Section 11-6-##

**E Multifamily Complex**

**1 Primary Façade.**

- a The primary entrance and front façade of buildings within a multifamily complex shall be oriented towards the following, listed in priority order

- I Perimeter streets,
  - II Primary internal streets,
  - III Parks or other common open space,
  - IV Secondary internal streets, or
  - V Parking areas only if approved by the Zoning Administrator
- 2 Parking shall be integrated into the overall site design to minimize visual impact, reduce the loss of trees, and be visually concealed from public rights-of-way
  - 3 ADA compliant pedestrian walkways shall be provided to all building entries and parking areas and shall connect to the sidewalk at the street frontage

#### **15-4-02. Institutional Use-Specific Standards**

##### **A Cemetery.**

- 1 The minimum lot size for a cemetery shall be three (3) acres
- 2 Adequate space shall be provided within the site for the parking and maneuvering of funeral corteges
- 3 All interment shall be set back at least fifty (50) feet from any adjoining lot line
- 4 All structures shall be set back at least fifty (50) feet from any boundary line of the cemetery property plus two (2) feet for each one (1) foot of structure height over 25 feet to the maximum height permitted by the district in which it is located
- 5 All requirements of the Wisconsin State Statutes regarding the interment of human dead shall be met

#### **15-4-03. Place of Assembly Use-Specific Standards**

RESERVE

#### **15-4-04. Recreation Use-Specific Standards**

##### **A Campgrounds.**

- 1 All campgrounds shall have direct access to an arterial street, however no direct access to an individual site shall be permitted from a public street
- 2 All campgrounds shall have a minimum site area of thirty (30) contiguous acres
- 3 All trailer and vehicle parking spaces are to be paved with asphaltic concrete
- 4 No more than fifteen (15) percent of a travel trailer park site shall be used for campground purposes
- 5 The following accessory uses may be allowed
  - a Recreational facilities
  - b Laundry buildings
  - c One (1) service retail store not to exceed two-thousand (2,000) square feet in total floor area

- d A manager's office and storage buildings, sanitary facilities, and fences, constructed in accordance with all the provisions of this Ordinance and all other applicable City of Franklin regulations
- e No accessory buildings or structures shall be used for human occupancy, except as explicitly approved
- 6 A maximum density of fifteen (15) campsites per acre shall be allowed
- 7 One hundred (100) square feet of recreation area shall be provided per campsite
- 8 All public utilities shall be placed underground
- 9 Campground areas of any travel trailer park shall provide a minimum of five-hundred (500) square for each tent site. A ten foot separation shall be maintained between tents
- 10 Every campground there shall be provided at least one (1) sanitary garbage pickup area on the site
- 11 All campgrounds shall comply with all State and local regulations

#### **15-4-05. Lodging Use-Specific Standards**

##### **A Lodging House.**

- 1 The property must be developed, maintained, and operated so that the principal building, accessory buildings, yard, drive, and street frontage complement the appearance and character of its adjacent neighborhood and do not detract from abutting properties
- 2 Cooking facilities shall not be permitted in any of the guest rooms
- 3 The Zoning Administrator may require a lodging house to be screened from abutting residential properties by the erection and maintenance of a Transition Area per Section 11-60#, the type of which shall be determined by the Zoning Administrator
- 4 The principal use is for lodging with accessory uses such as catering or events venue requiring temporary use permit

##### **B Short-Term Rental.**

- 1 A maximum of two (2) adult guests per bedroom shall be allowed
- 2 The duration of guest stay shall be a minimum of five (5) days and a maximum of thirty (30) days
- 3 A residence may be utilized as a short-term rental for a maximum of one hundred eighty (180) days per calendar year
- 4 The residential dwelling in which short term rental operates shall be the primary residence of the property owner
- 5 Short-term rentals shall be subject to the hotel tax provisions established in Chapter 138-25 of the City of Franklin Code of Ordinances

#### **15-4-06. Retail Use-Specific Standards**

##### **A Adult Establishment.**

- 1 Adult establishments shall locate at least one-thousand (1,000) feet from any parcel in a residential district or with an existing use classified in the following categories
  - a Residential
  - b Institutional

- c Place of Assembly
  - d Lodging
  - e Eating and drinking
- 2 Adult establishments shall locate at least one thousand (1,000) feet from another adult establishment
  - 3 A Type D Bufferyard shall be provided along all property lines shared with an existing use categorized in subsection (A)(1) or when adjoining a residential district
  - 4 The hours of operation shall be limited to between 11 30 am and 1 00 am, except for cleaning and maintenance activities necessary for the property's operation, which may occur or after the hours specified in this subsection
  - 5 No amplified sound equipment audible outside the principal building shall be allowed
  - 6 Adult uses shall comply with all federal, state, county, and local laws, rules, and regulations, as amended

#### **15-4-07. Service Use-Specific Standards**

##### **A Animal Boarding Facility/Kennel and/or Veterinary Services.**

- 1 No livestock or large animals shall be boarded, treated, or kept on the premises
- 2 Buildings shall be located no closer than seventy-five (75) feet from any adjacent residential property
- 3 Enclosed exercise areas shall be at least one-hundred fifty (150) feet from any residential property All exercise areas shall be enclosed by a fence and adjacent to the principal building
- 4 All litter and waste shall be contained and controlled on site by having appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area Solid waste shall be removed from outdoor areas after each use of the area
- 5 All activities, except animal exercise areas, shall be conducted within an enclosed building designed with noise resistant materials and which allows for adequate ventilation
- 6 Drainage from outdoor areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters
- 7 Solid waste will be removed from the outdoor area after each use of the area
- 8 All outdoor areas shall be screened with a solid opaque fence or wall at least six (6) feet in height Slatted chain link fences shall not meet this requirement
- 9 Use of outdoor exercise areas between the hours of 10 00 pm and 7 00 am is prohibited

#### **15-4-08. Eating and Drinking Use-Specific Standards**

##### **A Food Truck Court.**

- 1 The maximum number of food trucks allowed on site shall depend on the size of the lot and site's ability to provide required electrical access and parking Site plans shall be provided to the City for review before permitting
- 2 A minimum of ten (10) feet of clearance shall be provided between food truck stalls

- 3 Food truck stalls shall be clearly defined and separated from all patron parking with an enclosure. Any use of fencing or planters to separate the food truck park from parking shall provide visibility into the site and shall not exceed four (4) feet in height.
- 4 Food truck courts are encouraged to create an inviting and attractive aesthetic environment and shall include seating and shade elements.
- 5 A minimum of (2) permanent restrooms that meet ADA standards shall be made accessible to patrons within two hundred (200) feet of the food truck court during hours of operation.
- 6 Electrical service shall be provided to each food truck.
- 7 A minimum of one (1) trash receptacle and one (1) recycling receptacle shall be provided per food truck. The food truck park shall also provide a commercial dumpster outside of the designated patron area for waste disposal. The dumpster shall be screened in accordance with Section 11-60#.

### 15-4-09. Vehicle-Related Use-Specific Standards

#### A Auto Sales/Rental and Service.

- 1 All outdoor display areas for sales, rental, and service shall be improved with all-weather surfaces.
- 2 Parking lots used for the outdoor display of motor vehicles for sale and/or rent shall be exempt from the landscape spacing requirements for the parking area perimeter zone, as detailed in Section 11-60#, and instead may cluster required landscape elements to preserve views to motor vehicles offered for sale and/or rent.
- 3 No vehicles shall be parked within the public right-of-way.
- 4 Repair bays shall not front adjacent public rights-of-way or face a parcel with a residential use or in a residential district.
- 5 No more than one (1) elevated display shall be used, raising the vehicle no more than three (3) feet off the ground.
- 6 Accessory uses and structures, such as car wash facilities and their incidental functions (vacuums and air compressors) shall be set back at least fifty (50) feet from public rights-of-way or a residential use or district.
- 7 No existing buildings shall be occupied or re-used for vehicle sales, rental and service unless all requirements of this UDO are met. The use shall operate in accordance with all other applicable federal, state, and local laws. If additional permits are required, such permits shall be obtained prior to the operation's approval.
- 8 Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 9 Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan and drainage plan to ensure that contaminated runoff does not reach storm drains or surface waters.
- 10 The City Engineer shall review plans to ensure sufficient measures, including grading and where necessary oil/water separation or equivalent structures, have been incorporated into the site plan to comply with Section (13).

#### B Carwash.

- 1 Hours of operation shall be restricted to between 7am and 10pm.
- 2 All car wash facilities and accessory equipment such as vacuums, dryers, and accessory buildings and structures shall be set back a minimum of two hundred (200) feet from any parcel with an existing residential use or in a residential district. Such facilities and equipment shall be enclosed within a building, except for self-service vacuum units.

- 3 If self-service vacuum facilities are provided, a minimum of one (1) parking space for each vehicle capable of being serviced at any one time at such vacuum facility shall be provided. Such parking spaces for accessory vacuum facilities shall not interfere with circulation or entrance or exit drives.
- 4 Accessory equipment such as vacuum facilities shall be set back a minimum of twenty (20) feet from all property lines.
- 5 All full-service or conveyor-based carwash facilities shall be equipped with a water recycling system that shall recycle a minimum of fifty (50) percent of the water being used by the facility.
- 6 Drainage from outdoor storage and/or activity areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 7 Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan and drainage plan to ensure that contaminated runoff does not reach storm drains or surface waters.
- 8 The City Engineer shall review plans to ensure sufficient measures, including grading and where necessary oil/water separation or equivalent structures, have been incorporated into the site plan to comply with Section (13).

**C Major Automotive Repair.**

- 1 A Type C transition area, as detailed in Section 11-60#, shall be required along lot lines adjacent to any parcel in a nonresidential district.
- 2 A Type D transition area, as detailed in Section 11-60#, shall be required along lot lines adjacent to any parcel in a residential district.
- 3 All vehicle repair activities shall be within a completely enclosed building.
- 4 All storage of vehicles awaiting needed parts shall be within the building or in an enclosed or screened-in yard.
- 5 All damaged or nonoperable parts shall be stored indoors until removed from the premises.
- 6 All vehicle parts within a completely enclosed building.
- 7 Service bay entrances shall not front a public right-of-way unless specifically approved.
- 8 The maximum allowable number of tow trucks which can be parked at the site shall be determined by the Plan Commission as a condition of approval of the Conditional Use Permit.
- 9 Drainage from major automotive repair areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters.
- 10 Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan and drainage plan to ensure that contaminated runoff does not reach storm drains or surface waters.
- 11 The City Engineer shall review plans to ensure sufficient measures, including grading and where necessary oil/water separation or equivalent structures, have been incorporated into the site plan to comply with Section (10).

**D Vehicle Fuel Sales.**

- 1 All fuel sales stations shall have direct access to an arterial or collector street.
- 2 Any fuel pumps, underground fuel storage tanks, and islands, shall be at least fifty (50) feet from any street or abutting lot line.
- 3 All fuel pumps shall be set back a minimum of twenty-five (25) feet from the street right-of-way and side or rear lot lines.

- 4 All fuel pump canopies shall be located a minimum of twenty (20) feet from the street right-of-way and side or rear lot lines
- 5 All fuel pumps and fuel pump canopies shall be located a minimum of fifty (50) feet from any residential district boundary line
- 6 Fuel pump canopies shall have a maximum height of twenty-five (25) feet
- 7 Fuel pump canopy columns shall be clad in masonry, stucco, fiber cement, or stone veneer systems with a minimum thickness of three (3) inches, for a minimum of four (4) feet from the base of the column
- 8 Fuel pump canopies shall be lit with only fully recessed lighting
- 9 A Type B transition area, as detailed in Section 11-60#, shall be required along lot lines adjacent to any parcel in a nonresidential district
- 10 A Type D transition area, as detailed in Section 11-60#, shall be required along lot lines adjacent to any parcel in a residential district
- 11 No signs shall be permitted on fuel pump canopy roofs or fascia
- 12 Drainage from vehicle fuel sales areas shall be directed to gravel, grassed, or other planted areas in a manner that prevents direct discharge to storm drain inlets and surface waters
- 13 Measures for containment of potentially contaminated runoff from vehicle-related activities shall be incorporated into the site plan and drainage plan to ensure that contaminated runoff does not reach storm drains or surface waters
- 14 The City Engineer shall review plans to ensure sufficient measures, including grading and where necessary oil/water separation or equivalent structures, have been incorporated into the site plan to comply with Section (13)

#### **15-4-10. Agricultural Use-Specific Standards**

##### **A Nursery, Retail.**

- 1 The overall area of any outdoor sales accessory use shall not exceed the area of the principal enclosed building
- 2 All retail nurseries shall comply with Chapter 183 Orderly Conduct of the City of Franklin Municipal Code

#### **15-4-11. Industrial Use-Specific Standards**

##### **A Artisan Manufacturing.**

- 1 Gross floor area shall not exceed five thousand (5,000) square feet
- 2 Outdoor storage shall be prohibited
- 3 Outdoor operations or activities may be approved with a temporary use permit
- 4 Artisan manufacturing shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties
- 5 Retail sales of goods manufactured on-site shall be required and shall comprise a minimum of ten (10) percent of the total area of the building. Retail sales areas shall be located on the ground floor and shall be directly adjacent to storefront windows
- 6 Manufacturing areas are encouraged to be visible from retail areas



- 7 A maximum of one (1) residential unit shall be permitted within the same unit/leasable area as the artisan manufacturing use but shall be limited to twenty-five (25) percent of the total area of the building

**B Landfill.**

**1 Performance Criteria and Standards.**

- a All City of Franklin or County roads to be used to service the site shall be constructed to meet the City of Franklin, Milwaukee County, and Wisconsin Department of Transportation standards appropriate for the weight of the trucks using the facility prior to the operation of the facility
  - b A bond written by a licensed surety company, a certified check, letter of credit, or other financial guarantee in an amount sufficient to cover the costs associated with the repair of the affected road(s) to standard upon closure or if the road deteriorates due to the traffic to the facility shall be provided
  - c An additional three (3) feet of final cover shall be required in addition to the amount required in the Wisconsin Administrative Code, and the facility shall be landscaped in approved ground cover of prairie plantings as determined appropriate by the City of Franklin
  - d The disposal operation shall be conditioned on approval by those state agencies having authority for such approval, and the use shall meet all applicable federal, Milwaukee County, and City of Franklin requirements
- 2 The City of Franklin shall enter into negotiation and arbitration procedures as set forth in Chapter 144 445 of the Wisconsin Statutes as amended for the approval of a solid waste disposal facility or expansion thereof

**C Self-Service Storage Facility.**

- 1 Outdoor storage, with the exception of recreational vehicles, boats, and other recreational equipment as regulated in subsection 2 below, shall be prohibited
- 2 Outdoor storage of recreational vehicles, boats, and other recreational equipment shall be allowed if screened with a solid wall or opaque fence constructed from materials approved by the Zoning Administrator and not less than six (6) feet or more than eight (8) feet in height in areas visible from an existing or proposed arterial roadway or from a property in any district other than the LI Limited Industrial District
- 3 The storing of hazardous or toxic materials is prohibited
- 4 No storage space shall be used for residential occupancy, business sales or operation, the storage of commercial or industrial inventory or raw materials, or the operation of machinery

**15-4-12. Utility and Transportation Use-Specific Standards**

**A Airport/Heliports.**

- 1 The site shall be at least fifteen (15) contiguous acres in area
- 2 The site shall be sufficient in size to meet the standards for the type of facility proposed of the Federal Aviation Administration and the Department of Transportation in accordance with their published rules and regulations
- 3 Any proposed landing area shall be situated so that any structures, high voltage power lines, towers, chimneys, and natural obstructions within the approach zones, shall comply with regulations for height restrictions in airport approach zones of the Federal Aviation Administration, Wisconsin Division of Aeronautics, or other airport authority qualified to establish zoning regulations
- 4 No planned approach areas shall be permitted over parcels with existing residential uses or planned residential uses, according to the City of Franklin's Comprehensive Plan

- 5 Landing and take-off areas shall be at least one hundred fifty (150) feet from any lot boundary and at least five hundred (500) feet from any dwelling unit or residential zoning district
- 6 Hangers, repair facilities, or other airport/heliport buildings shall be at least one hundred (100) feet from any street right-of-way line and least one hundred fifty (150) feet from any lot boundary
- 7 All repair of airplanes and mechanical equipment shall take place inside enclosed hangars
- 8 Residential uses shall not be located within the approach path unless measures to achieve a noise level reduction of 25 dBA (outdoor to indoor) are incorporated into the design and construction of the residential structures
- 9 Heliports shall meet all applicable Federal, state and local regulations

**B Helistops.** Helistops shall meet the following requirements

- 1 The site shall be sufficient in size and the site shall otherwise be adequate to meet the rules and regulations established by the Federal Aviation Administration and the Department of Transportation
- 2 Landing and take-off areas shall be located a minimum of one-hundred fifty (150) feet from any parcel boundary and a minimum of five hundred (500) feet from any residential parcel boundary
- 3 Landing areas shall be situated so that any structures, high voltage power lines, towers, chimneys, and natural obstructions within the approach zones, shall comply with regulations for height restrictions in airport approach zones of the Federal Aviation Administration, Wisconsin Division of Aeronautics, or other airport authority qualified by law to establish hazard zoning regulations
- 4 No planned approach areas shall be permitted over parcels with existing residential uses or planned residential uses, according to the City of Franklin's Comprehensive Plan
- 5 Heliports shall meet all applicable Federal, state and local regulations

**C Solar Farm.**

- 1 Properties on which a public utility owns or leases the land shall be exempt from the standards for solar farms
- 2 No solar farm shall be erected on any lot less than four (4) acres in size
- 3 A certified professional engineer shall certify that the foundation and design on the solar panels are within accepted professional standards, given local soil and climate conditions
- 4 Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground
- 5 Systems, equipment, and structures shall not exceed thirty feet (30) in height when ground mounted
- 6 Ground mounted solar energy collection systems as part of a solar farm shall have a minimum setback for all equipment, excluding fences, of
  - a Front and Corner Yards one hundred (100) feet,
  - b Side and Rear Yards fifty (50) feet from nonresidential property lines and one hundred (100) feet from residential property lines
- 7 Systems equipment and structures shall be fully enclosed and secured by a fence or wall with a height of eight (8) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access
  - a **Warnings.**

- i Warning signs shall be provided at the entrance to the facility and along the perimeter of the solar farm in locations determined necessary by the Zoning Administrator
    - ii The signs shall be made with letters and numbers at least three (3) inches in height and shall include the 911 address and an emergency phone number of the operator which shall be answered twenty-four (24) hours a day by a live operator. A nonemergency phone number for the operator shall also be displayed. These phone numbers shall remain active with all calls being voice recorded for verification purposes and with comments and complaints logged and reported to the City monthly. The recorded calls shall be maintained for at least twelve (12) months.
  - 8 **Outdoor Storage.** Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm shall be allowed except for outdoor storage that is expressly allowed in the zoning district specified elsewhere in this title.
  - 9 **Materials Handling, Storage, and Disposal.**
    - a All solid wastes related to the construction, operation, and maintenance of the solar farm shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
    - b A list of hazardous fluids that may be used on site shall be provided. All hazardous materials related to the construction, operation, and maintenance of the solar farm shall be handled, stored, transported, and disposed of in accordance with all applicable local, state and federal laws.
  - 10 **Decommissioning Plan.** Prior to receiving approval, the applicant shall submit a decommissioning plan to ensure that the solar farm project is properly decommissioned, which shall include
    - a Provisions describing the triggering events for decommissioning the solar farm project. Any nonfunctioning solar panel/array of the project shall be decommissioned within thirty (30) days unless the operator has shown to the Zoning Administrator that it is diligently repairing such solar panel/array or component.
    - b Procedures for the removal of structures, debris, and cabling, including those below the soil surface,
    - c Provisions for the restoration of the natural soil and vegetation,
    - d An estimate of the decommissioning costs certified by a professional engineer, to be updated every three (3) years or as determined necessary by the Zoning Administrator. The Zoning Administrator may request an independent third-party verification of the decommissioning costs at any time. The costs for this verification shall be reimbursed by the applicant and/or operator.
    - e Financial assurance, secured by the owner or operator, for the purpose of performing the decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning cost.
  - 11 A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of his successors, assigns, or heirs.
- D **Wind Farm.**
- 1 Public utilities shall be exempt from the standards for wind farms.
  - 2 No wind farm shall be erected on any lot less than four (4) acres in size.
  - 3 **Design and Installation.**
    - a **Safety Certification.**
      - i Wind farm systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment

manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energic (GL), or an equivalent third party prior to plan approval

- ii Following plan approval, a professional engineer shall certify, as part of the building permit application, that the foundation and tower design of the wind farm system is within accepted professional standards, given local soil and climate conditions
- b **Controls and Brakes.** All wind farm systems shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection
- c **Electrical Components.** All electrical components of the wind farm systems shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI and international electrical commission). Utility lines connecting the towers, substations, etc., shall be placed underground where practical
- d **Turbine Consistency.** To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction
- e **Warnings.**
  - i A reasonable visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations
  - ii Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground
  - iii Warning signs shall be provided at the entrance to the facility and along the perimeter of the solar farm in locations determined necessary by the Zoning Administrator
  - iv The signs shall be made with letters and numbers at least three (3) inches in height and shall include the 911 address and an emergency phone number of the operator which shall be answered twenty-four (24) hours a day by a live operator. A non-emergency phone number for the operator shall also be displayed. These phone numbers shall remain active with all calls being voice recorded for verification purposes and with comments and complaints logged and reported to the Zoning Administrator monthly. The recorded calls shall be maintained for at least twelve (12) months
- f **Climb Prevention.** All wind farm towers must be unclimbable by design or protected by anti-climbing devices such as
  - i Fences with locking portals at least six (6) feet high, or
  - ii Anti-climbing devices twelve (12) feet vertically from the base of the wind farm tower
- g **Setbacks.** Wind farm towers and appurtenant structures shall meet the following minimum setbacks
  - i Wind farm towers shall be six (6) times the height of the wind farm tower or at least three thousand, two hundred fifty (3,250) feet, whichever is greater, from any principal structure or use on the subject or neighboring property
  - ii Wind farm towers shall be one and one-tenth (1.10) times the wind farm tower height from public roads, third party transmission lines, and communication towers
  - iii Wind farm towers shall be one thousand six hundred forty (1,640) feet from adjacent property lines, as measured from the center of the wind farm tower foundation

- iv No part of a wind farm tower or foundation shall encroach on a public or private sewage disposal (septic) system
- v Above ground transmission facilities and poles shall be set back one-hundred fifty (150) feet from any portion any principal structure or use on the subject or neighboring property
- h **Use of Public Roads.** An applicant, owner, or operator proposing to use any City or County Road for the purpose of transporting and installation of wind farm or substation parts and/or equipment for construction, operation, or maintenance of the wind farm or substations, shall
  - i Identify all such public roads, and
  - ii Obtain applicable weight and size permits from relevant government agencies prior to construction
  - iii To the extent an applicant, owner, or operator must obtain a weight or size permit from the City, County, or State, the applicant shall provide
    - a) Financial assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating, or maintaining the wind farm prior to the issuance of building permits
    - b) A signed copy of any agreements pertaining to the use of public roads prior to the issuance of building permits
  - i **Outdoor Storage.** Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the wind farm shall be allowed except for outdoor storage that is expressly allowed in the zoning district specified elsewhere in this title
- 4 **Operation.**
  - a **Maintenance.**
    - i The owner or operator of the wind farm must submit, upon request a summary of the operation and maintenance reports to the county In addition to the annual summary mentioned in this subsection, the owner or operator must furnish such operation and maintenance reports as the City reasonably requests
    - ii Any replacement of equipment that is not a like-kind replacement using the same equipment in plan as approved shall require that an amendment to the Conditional Use
  - b **Materials Handling, Storage, and Disposal.**
    - i All solid wastes related to the construction, operation, and maintenance of the wind farm shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws
    - ii A list of hazardous fluids that may be used on site shall be provided All hazardous materials related to the construction, operation, and maintenance of the wind farm shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws
  - c **Decommissioning Plan.** Prior to receiving approval, the applicant shall submit a decommissioning plan to ensure that the wind farm project is properly decommissioned, which shall include
    - i Provisions describing the triggering events for decommissioning the wind farm project. Any nonfunctioning wind turbine of the project shall be decommissioned within thirty (30) days unless the operator has shown to the Zoning Administrator that it is diligently repairing such wind turbine or component
    - ii Procedures for the removal of structures, debris, and cabling, including those below the soil surface,

- iii Provisions for the restoration of the natural soil and vegetation,
- iv An estimate of the decommissioning costs certified by a professional engineer, to be updated every three (3) years or as determined necessary by the Zoning Administrator. The Zoning Administrator may request an independent third-party verification of the decommissioning costs at any time. The costs for this verification shall be reimbursed by the applicant and/or operator.
- v Financial assurance, secured by the owner or operator, for the purpose of performing the decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning cost.
- vi A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of his successors, assigns, or heirs.

### 15-4-13. Accessory Use-Specific Standards

#### A Accessory Dwelling, Detached / Attached

- 1 One (1) detached, attached, or internal accessory dwelling unit shall be allowed per lot.
- 2 No lot may have both a detached garage and a detached accessory structure. On any lot with a detached garage, a detached accessory dwelling unit may be located above the detached garage.
- 3 The detached / attached accessory dwelling shall be located to the interior side or rear of the principal dwelling.
- 4 The maximum size of a detached accessory dwelling shall be thirty (30) percent of the gross floor area of the principal dwelling or one thousand two hundred (1,200) square feet, whichever is less.
- 5 The maximum height of a standalone detached accessory dwelling shall be seventeen (17) feet or the height of the principal dwelling, whichever is less.
- 6 The maximum, combined height of a detached accessory dwelling located above a detached garage and the detached garage shall be twenty-seven (27) feet or the height of the principal dwelling, whichever is less.
- 7 Detached accessory dwellings shall be setback a minimum of five (5) feet from the rear and interior side lot lines.
- 8 Attached accessory dwellings shall be located fully within the buildable area of the lot.
- 9 The principal dwelling and detached / attached accessory dwelling shall be served by a common driveway.
- 10 The detached / attached accessory dwelling shall have similar architectural features including roof pitch, window type, size, and placement, and exterior building cladding materials and similar exterior colors as the principal dwelling.
- 11 The principal dwelling or detached / attached accessory dwelling shall be the primary residence of the owner of the property.

#### B Accessory Dwelling, Internal

- 1 One (1) detached, attached, or internal accessory dwelling unit shall be allowed per lot.
- 2 The maximum size of the internal accessory dwelling shall be thirty (30) percent of the gross floor area of the principal dwelling.
- 3 The principal dwelling and internal accessory dwelling shall be served by a common driveway.
- 4 The principal dwelling or internal accessory dwelling shall be the primary residence of the owner of the property.

#### C Accessory Retail.

- 1 The total area devoted to retail activity shall not exceed twenty-five (25) percent of the total area of the building in which the accessory retail activity shall be located
- 2 Restroom facilities, if provided, shall be directly accessible from the accessory retail/restaurant sales area
- 3 Accessory retail sales areas shall be physically separated from other activity areas by a wall

**D Accessory Structures.**

- 1 No accessory building shall be constructed on a site without a principal building and a principal use
- 2 Accessory structures shall have a maximum height of seventeen (17) feet, or the height of the principal building, whichever is less
- 3 No accessory structure shall be constructed within or on an easement
- 4 **Location.** An accessory structure shall be located as follows
  - a Completely within the required rear yard setback and five (5) feet from rear yard lot lines
  - b Completely within the buildable area of the lot and to the interior side or rear of the principal building
  - c At least ten (10) feet from the principal building unless constructed with a one (1) hour fire rating, in which case the accessory structure shall be set back at least six (6) feet from the principal building
  - d Wetland setbacks and buffers as specified in Article 6 may further limit the location of accessory structures

**5 Maximum Area.**

- a Accessory structures shall not exceed one thousand two hundred (1,200) square feet in area
- b Accessory structures may exceed one-thousand two-hundred (1,200) square feet on parcels in the RC - Conservation Residence or R-SE - Suburban/Estate Residence District use subject to the following regulations
  - i The minimum lot area shall be three (3) acres
  - ii The maximum accessory structure size shall be five hundred (500) square feet per acre No accessory structure shall exceed five thousand (5,000) square feet
  - iii No accessory over twelve hundred (1,200) square feet structure shall exceed forty (40) feet in height
  - iv An accessory structure over twelve hundred (1,200) square feet shall not be located closer to a side or rear lot line than a distance equal to its height.
  - v An accessory structure over twelve hundred (1,200) square feet shall not be used for commercial or residential use

**E Artisan Workshop.**

- 1 The artisan workshop shall be wholly within the principal building and any accessory building
- 2 The principal building shall be the primary residence of the property owner
- 3 No alterations shall be made to the principal building or accessory building that changes its residential character or appearance or otherwise gives evidence of the artisan workshop
- 4 The sale of goods or materials on site shall be prohibited
- 5 No persons, other than the residents of the dwelling unit, shall be employed on site

- 6 Mechanical or electrical equipment supporting the artisan workshop shall be self-contained within the structure and normally used for office, domestic, or household purposes
- 7 The outdoor display or storage of goods, materials, merchandise, or equipment related to the artisan workshop shall be prohibited
- 8 The artisan workshop shall not require the delivery or shipment of goods, materials, merchandise, or equipment beyond what is typical for a residential use
- 9 The artisan workshop shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties
- 10 The artisan workshop shall not discharge any material which is radioactive, poisonous, or detrimental to either wastewater or storm water systems

**F Drive Through.**

- 1 Drive throughs shall be permitted a maximum of four (4) total menu boards with a combined maximum area of 100 square feet
  - a Each menu board or pre-order board shall not exceed sixty (60) square feet in area and ten (10) feet in height. Menu boards and pre-order boards may utilize electronically activated changeable copy message centers for one hundred (100) percent of the permitted menu board or pre-order board area and must follow all regulations of Section 11-825 04 C 2
- 2 Any speaker or intercom associated with a drive through shall not be audible beyond the boundaries of the property
- 3 Drive through canopies shall maintain a uniform and consistent roofline with the building to which the drive-through is associated
- 4 Stacking spaces and lanes for drive through stations shall not impede on- and off-street traffic movement, shall not cross off-street parking areas or drive aisles and shall not impede pedestrian access to a public building entrance
- 5 Drive through lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated
- 6 Drive through facilities shall be provided with a bypass lane with a minimum width of ten (10) feet unless an alternative means of exit is approved
- 7 Stacking lanes shall have a minimum depth of twenty (20) feet per stacking space and the following minimum lane widths
  - a One (1) lane twelve (12) feet,
  - b Two (2) or more lanes ten (10) feet per lane
- 8 Drive through facilities shall be required to provide a minimum number of stacking spaces as detailed in Table 11-511(E)



<b>Use</b>	<b>Minimum Stack</b>	<b>Measure From</b>
<i>Automated Teller Machine</i>	3 per machine	teller machine
<i>Bank Teller Lane</i>	2 per lane	teller or window
<i>Restaurant</i>	6 per order box	order box (1)
<i>Carwash Stall, Automatic</i>	5 per stall	stall entrance
<i>Carwash Stall, Manual</i>	3 per stall	stall entrance
<i>Oil Change Shop</i>	3 per service bay	service bay entrance
<i>Pharmacy</i>	4 per lane	machine or window
<b>Notes:</b>		
(1) 4 of the required stacking spaces are to be located between the order-box and pick-up window, including the stacking space at the order box		

**G Donation Drop Box.**

- 1 Donation drop boxes shall be on properties that contain a legally existing and operating use
- 2 No more than two (2) donation drop boxes shall be permitted on a lot
- 3 Each donation drop box shall not exceed seven (7) feet in height and twenty-five (25) square feet in ground area
- 4 Donation drop boxes shall only be located in street or interior side or rear yard setbacks
- 5 Donation drop boxes shall be located on an asphalt or concrete paved surface
- 6 Donation drop boxes shall not locate in a driveway or drive aisle and shall not reduce the width of paved clear space for the passage of pedestrians to less than five (5) feet Boxes shall not locate in such a way as to disrupt the flow of vehicular or pedestrian traffic
- 7 Donation drop boxes shall not be located nearer than forty (40) feet from an adjoining lot in a residential district
- 8 Donation drop boxes shall be located to the side or rear of the primary façade of the building
- 9 A notice must be permanently affixed to each donation drop box in a highly visible location prohibiting the placement of items outside of the box The name and twenty-four (24) hour telephone number of the owner/operator must be permanently affixed to each donation drop box

**H Electric Vehicle Charging Stations**

**1 Equipment.**

- a Electric Vehicle Charging stations that are accessory to all mixed-use, multifamily, and nonresidential uses shall be a level 2 charging capacity
- b Electric vehicle charging station equipment shall be protected by a wheel stop, curb, or bollards
- c In parking lot applications, all connections of the charging station to electrical utility equipment shall be underground
- d All electric vehicle charging station equipment shall comply with the National Fire Protection Association/National Electrical Code and be approved by the Underwriters Laboratory
- e All equipment should be made of low-maintenance, durable materials and shall be vandal-proof to the extent possible

- f All equipment shall provide a cord management system that minimizes tripping hazards for pedestrians. Charging cords may not cross sidewalks, walkways, or driveways.

**2 Design Considerations.**

- a Electric vehicle charging station equipment shall be located in a manner that will not obstruct pedestrian walkways. A minimum of three (3) feet of clear area shall be maintained.
- b Electric vehicle charging stations shall be located to optimize ease of use for all potential users.
- c Electric vehicle charging station shall provide a safe and clearly delineated area for maneuvering around the vehicle for connecting to the equipment.
- d A sign indicating that the electric vehicle parking is for use while charging only shall be provided.
- e All charging stations shall be illuminated. Lighting shall comply with the limitations in Section ##-##-##.

**3 Electrical Equipment Siting and Screening.**

- a Electric vehicle charging stations shall be located to minimize the distance to electrical supply equipment.
- b When locating the electrical supply equipment consider blind spots and visibility obstructions for drivers and pedestrians.
- c To the extent practical, electrical supply equipment shall be screened by walls, fences, landscaping, or a combination thereof to be effective year-round.

**4 Accessibility.** A minimum of one (1) accessible charging station is required with any installation of electric vehicle charging stations. The accessible charging station shall provide equipment, reach, clear area, route, and other applicable building blocks to comply with the current Wisconsin Building code and federal accessibility recommendations.

**5 Maintenance.**

- a The property owner on which electric vehicle charging stations are located is responsible for ensuring that the equipment is intact and will not pose a hazard to any visitors to the property. This shall include ensuring that cords are hung to prevent tripping hazards.
- b All electric vehicle charging station equipment shall be maintained to working condition. Equipment that is no longer functional must be decommissioned within sixty (60) days.

**I Home-Based Business.**

- 1 The home-based business shall be conducted wholly within the principal building and any accessory building.
- 2 The home-based business shall only employ individuals that reside on-site.
- 3 The home-based business shall encompass no more than twenty five (25) percent of the floor area of the dwelling unit shall.
- 4 The home based business shall not alter the outside appearance of the building, accessory structure, or premises that changes in a way that changes its residential character or appearance.
- 5 The outdoor display, storage, sale of goods, materials, merchandise, or equipment related to the home-based business shall be prohibited.
- 6 No mechanical equipment shall be used except such that is normally used for purely domestic or household purposes, and shall be contained within the principal or accessory building or structure.

- 7 No commodity or good produced off-site shall be sold on the premises, displayed on the exterior or interior of the premises or warehoused on the premises for sale elsewhere
- 8 No vehicular or pedestrian traffic shall be generated by such home occupation or home office in greater volume than would normally be expected from the principal use
- 9 No noise, emissions, radiation, vibration, heat, glare, smoke, dust, fumes, odors, or electrical interference created which is detectable to the normal senses outside the dwelling unit in excess of that normally associated with a residential household use shall be allowed
- 10 The home-based business shall not generate refuse exceeding the amount allowable for regular residential pick-up shall be generated by any home occupation
- 11 The home-based business shall not generate or store toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials on the site except those which are ordinarily used for household
- 12 **Nuisance Causing Activities.** No home occupation shall cause or create any nuisance, cause or create any substantial or undue adverse impact on any adjacent property or the character of the area, or threaten the public health, safety, or general welfare, or be noxious, offensive, or hazardous
- 13 **Materials Which Decompose by Detonation Prohibited.** No materials which decompose by detonation shall be allowed in conjunction with a home occupation
- 14 No home-based business shall be permitted which generates wastewater or water use in excess of the quantity typically required for a residential dwelling unit

**J Outdoor Activity/Operation/Storage, Accessory.**

- 1 Any property with permanent outdoor activity/operation/storage shall have a minimum lot size of five (5) acres
- 2 Outdoor activity/operation/storage shall be conducted between the hours of 7 00 am and 9 00 pm
- 3 Outdoor activity/operation/storage shall be located to the rear or interior side of the principal building on the lot
- 4 Outdoor activity/operation/storage shall be prohibited in front or street side yards
- 5 Outdoor activities and operations shall be setback a minimum of fifty (50) feet from all property lines when adjacent properties are zoned B-G and B-R Districts
- 6 Outdoor activities and operations shall be setback a minimum of one hundred (100) feet from all property lines when adjacent properties in the R-C, R-SE, R-SR, R-M, R-V, B-N, B-MU, and B-SM Districts
- 7 The following minimum screening requirements shall apply to permanent outdoor activities and operations visible from the right-of-way of an existing or proposed arterial or collector roadway or a property zoned R-C, R-SE, R-SR, R-M, R-V, B-N, B-MU, B-SM Districts
  - a A solid wall constructed from materials, not including metal, identical to those used on the exterior of the principal building, unless otherwise approved by the Planning Commission, and not less than six (6) feet and not more than eight (8) feet in height shall be erected to screen the portions of permanent outdoor activity and operations areas visible from an existing or proposed arterial or collector roadway or a property zoned in the R-C, R-SE, R-SR, R-M, R-V, B-N, B-MU or B-SM Districts
  - b A landscape strip, not less than five (5) feet wide shall be located in front of the wall. The landscape strip shall be improved with a Type A Transition Area per Section 11-60#

**K Outdoor Dining.**

- 1 The outdoor dining area shall be located on an approved hard paved surface or a deck or other feature appurtenant to the principal building as approved by the Zoning Administrator
- 2 Outdoor dining areas may utilize a maximum of twenty (20) percent of the parking spaces required for the operation of the principal use or two thousand (2,000) square feet, whichever is less
- 3 Outdoor dining areas shall not block a pedestrian walkway or public sidewalk in a manner which reduces the width of that walkway or sidewalk to less than five (5) feet
- 4 A fence, landscape hedge, or wall with a height of four (4) feet shall be utilized to segregate the outdoor dining area
- 5 Use of outdoor dining areas shall be limited to the posted operational hours of the associated eating and drinking use
- 6 Review by the City Engineer and other City staff shall be required in addition to the review requirements of Section ##-###

**L Outdoor Display/Sale of Merchandise.**

- 1 Only those goods and materials associated with the existing on-site use may be displayed or sold
- 2 Permanent outdoor display or sales areas shall not be located within any required yard setback or parking area
- 3 Permanent outdoor display or sales areas shall be surfaced with an approved hard surface material Unpaved outdoor display or sales areas shall be prohibited
- 4 Permanent outdoor display or sales areas shall not exceed ten (10) percent of the gross floor area of the primary building on the property unless approved as a Conditional Use

**M Solar Energy Collection System, Canopy.**

- 1 The height of canopy solar energy collection systems shall not exceed the height of the primary building that the parking area serves
- 2 The minimum height of solar energy collection systems shall allow clearance for emergency and service vehicles

**N Solar Energy Collection System, Ground-Mounted.**

- 1 Ground mounted solar energy collection systems shall be permitted in the rear yard only
- 2 The maximum height of ground mounted solar energy collection systems shall be five (5) feet in height, measured from the grade at the base of the pole to the highest edge of the system
- 3 Minimum clearance between the lowest point of the system and the surface on which the system is mounted is twelve (12) inches
- 4 All parts of the freestanding system shall be set back ten (10) feet from the side and rear lot lines and shall not be located in a public utility easement
- 5 No part of the freestanding system shall be visible from any public right of way

**O Solar Energy Collection System, Roof Mounted.**

- 1 Roof mounted solar energy collection systems may be located on any roof face of principal or accessory buildings Systems should be flush mounted when possible
- 2 Systems on residential structures shall not extend beyond twelve (12) inches parallel to the roof surface of a pitched roof or flat roof

- 3 Systems on nonresidential structures shall not extend beyond thirty-six (36) inches parallel to the roof surface of a pitched roof or flat roof
- 4 Systems on all structures shall not extend above the highest peak of a pitched roof Height is measured from the roof surface on which the system is mounted to the highest edge of the system
- 5 All materials used for racking, mounts, mounting clamps, and flashings shall be of a color consistent with the color of the roof surface to minimize visibility

#### **15-4-14. Temporary Use-Specific Standards**

##### **A Food Truck.**

- 1 The location of a food truck on landscape areas, in required setbacks, an ADA parking stall, or a pedestrian path is prohibited
- 2 Food trucks shall obtain written permission from the property owner(s) and shall submit such documentation as part of the temporary use approval process specified in Section ##-##-##
- 3 A food truck, including all vending activity, tables, chairs, and trash receptacles may occupy no more than four (4) parking stalls or six hundred and fifty (650) square feet of parking area, whichever is less
- 4 Tables and chairs shall be permitted and located on improved or paved surfaces and shall not locate in parking stalls, landscape areas, or drive aisles, aside from the four (4) parking stalls designated for vending
- 5 A minimum of one (1) trash receptacle and one (1) recycling receptacle shall be provided per food truck
- 6 Required tables, chairs, and trash and recycling receptables shall not be retained on-site overnight
- 7 Drive aisles, sidewalks, access to trash enclosures, and similar areas may not be blocked by any vending activity
- 8 Food trucks shall be located a minimum of five hundred (500) feet from any brick-and-mortar restaurant as measured from the property line

##### **B Seasonal Sales.**

- 1 Seasonal sales shall be permitted for a period not to exceed ninety (90) days per calendar year, unless otherwise approved
- 2 Seasonal sales areas shall not block pedestrian walkways in a manner which reduces the width of that walkway to less than five (5) feet
- 3 All tents, canopies, or other temporary structures shall require review and approval by the Director of Inspection Services



## MEMORANDUM

**Date:** October 25, 2022

SENT VIA EMAIL

**To:** City of Franklin UDO Update Task Force  
Régulo Martinez-Montilva, AICP, Principal Planner  
Manon Ecks, AICP, Associate Planner

**From:** Houseal Lavigne Associates  
Jackie Wells, AICP, Project Manager  
Ruben Shell, AICP, Planner II

**Re:** **Franklin, WI Unified Development Ordinance  
Draft Articles 5 - 6 Overview**

The purpose of this memorandum is to provide an overview of the content contained within the draft Article 5 - General Development Standards and Article 6 - Sign Standards and portray the substantial changes to those Articles from the current Unified Development Ordinance (UDO). Questions identified by City staff and the project team for discussion by the Task Force are also provided.

### ARTICLE 5. GENERAL DEVELOPMENT STANDARDS

Article 5 contains all the UDO provisions that regulate the physical development of sites in the City. The Article includes regulations for a variety of topics, parking, driveways, landscaping, screening, fencing, building design, outdoor lighting, and vision clearance areas.

Section 15-5-01 includes the City's standards for off-street parking and loading which are proposed to be updated to:

- Establish an allowed maximum quantity of off-street parking per land use
- Require vehicular cross access between adjacent development along an Arterial Road
- Require on-site pedestrian circulation systems for multifamily, mixed-use, and nonresidential development only
- Require the provision of off-street bicycle parking
- Require the provision of infrastructure to electric vehicle charging stations in any commercial or mixed-use district

Section 15-5-02 establishes new driveway standards for the City. Driveways on lots with single-family and duplex uses are proposed to differentiate between driveways, garage access drives, and parking pads to provide more flexibility while maintaining safe and consistent curb cut widths. New standards are proposed for driveways on lots with townhouse, multifamily, and nonresidential uses to regulate driveway width and placement to provide for motorist and pedestrian safety. The existing UDO provision restricting the placement of driveways near street intersections is retained.

Sections 15-5-03 establishes the location of required landscaping including bufferyards between adjacent uses. Meanwhile, Section 15-5-04 establish detailed regulations regarding the provision of landscaping including the number of trees, shrubs, grasses, and bioretention plantings for different types of land uses. The regulations of this section are retained from the existing UDO and revisions and additions are made to introduce more green infrastructure, healthier trees, and more ecologically useful plantings. Section 15-5-06

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contains the City's existing minimum landscaping standards for off-street parking areas and lots. These standards are revised to include additional detail for the quantity and specifications of landscaping provided within and along the exterior of parking areas.

Section 15-5-07 contains entirely new and enhanced standards for the screening of grease traps, trash, and recycling receptacles, ground/wall mounted mechanical units, roof-mounted mechanical units, and loading docks and truck-parking areas.

Next, Section 15-5-08 establishes new standards that regulate the placement and provision of fencing. The section includes an allowance for privacy fences with a maximum height of 6 feet in street-facing side yards when set back from the property line. Several existing UDO regulations regarding fence maintenance, prohibition on the storage of material, and allowances for snow fencing are retained.

After that, standards are established to regulate townhouse, multifamily, mixed-use, and nonresidential design in Section 15-5-09 including minimum requirements for exterior building cladding materials, façade articulation, and glazing on sites with these uses.

Section 15-5-10 establishes standards for outdoor lighting on lots, including requirements for full cut-off lighting and regulations for the maximum light level at the property line for nonresidential and residential uses to further minimize land use incompatibilities. The existing UDO's allowed lighting pole height by district is retained in Table 15-5-10(C)(2).

Section 15-5-11 includes the City's standards for vision clearance areas at the intersection of streets and driveways with streets.

## Questions For Task Force Discussion

The following issues have been identified for discussion and policy direction as the Task Force considers the draft Article 5:

- Are the pedestrian circulation standards in Section 15-5-01(C)(11), which require on-site pedestrian circulation systems for pedestrians on sites with multifamily, mixed-use, and nonresidential development appropriate for Franklin?
- Are the requirements for the provision of infrastructure to support electric vehicle charging stations in Section 15-5-01(F) appropriate for Franklin? Would the City prefer more stringent measures such as requirements for electric vehicle charging stations, or less stringent requirements such as an incentive?
- What is the appropriate width limit for driveways for single-family and duplex uses in Section 15-5-02(D)? A standard of twelve feet in width at the property line has been discussed and is included in the draft.
- What materials should be allowed for fencing in Section 15-5-08(D)? Should chain link fences be prohibited, and should vinyl-coated chain link fences be allowed instead?
- Are the exterior building cladding material standards in Section 15-5-09 appropriate to regulate the appearance of townhouse, multifamily, mixed-use, and nonresidential buildings in Franklin?

## **ARTICLE 6. SIGN STANDARDS**

Article 6 - Signs features fully new language proposed to replace the current language in Chapter 210. The proposed Article includes content neutral regulations that comply with the SCOTUS decision in the Reed vs the Town of Gilbert, AZ case. Where applicable, the existing sign area, location, projection, and height standards have been carried forward into the draft of Article 6 and are shown without tracked changes in the redline version of the Article. The existing standards that regulate wind pressure, allowable stresses, and materials are also carried forward.

Two sign types that are currently allowed in the City, billboards and marquee signs, are proposed to be prohibited per Section 15-6-08. Cold air inflatable signs and other signs that feature moving parts or on which movement is caused either by wind or mechanical devices are also prohibited per Section 15-6-08.

### **Questions For Task Force Discussion**

The following issues have been identified for discussion and policy direction as the Task Force considers the draft Article 6:

- Billboards, roof signs, and marquee signs are currently allowed under the existing UDO but are prohibited in Article 6 as drafted. Should these signs continue to be allowed in the City?
- Cold-air inflatable signs and other signs with moving parts that are activated by the wind or mechanically are prohibited in Article 6 as drafted. Should these signs be allowed in the City?
- Feather signs are allowed in several commercial districts in the draft of Article 6. Are these types of signs appropriate to allow in Franklin?



## Article 5. General Development Standards

15-5-01. Off-Street Parking and Loading .....	1
15-5-02. Driveways .....	12
15-5-03. Required Landscaping .....	17
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### 15-5-01. Off-Street Parking and Loading

A. **Applicability.** The off- street parking and loading provision provisions of this Article shall apply as follows.

1. **No Off-Street Parking Required.** The off-street parking maximums in **Section ##-##-##** establish maximum quantities of off-street parking that may be provided for each use on a lot. The off-street parking maximums do not constitute a parking requirement. Applicants may provide off street parking less than the maximum established for the applicable use.
2. **Existing Uses Established Prior to the Effective Date of This Ordinance.** This article shall not require the reduction or addition of any parking or loading spaces for uses existing as of the effective date of this UDO.

B. **Off-Street Parking Limited.**

1. **Maximum Requirements.** To minimize the creation of impervious surface, no off-street parking area shall be designed or used to provide a greater number of off-street parking spaces than the limit established in **Table ##-##-##**.
2. **Parking Increases Allowed.** The Zoning Administrator may allow an increase in the number of off-street parking spaces allowed of up to thirty (30) percent of the spaces provided above the maximum when the following provisions are met.
  - a. The additional spaces over the maximum are surfaced with a permeable paving system or one hundred (100) percent of the first half (1/2) inch of runoff from the additional parking area is treated with green infrastructure.
  - b. Additional parking area landscaping equivalent to an area fifteen (15) percent greater the minimum square feet of parking area landscaping specified in **Section ##-##-##** is provided.
  - c. The parking lot perimeter landscape zone required in **Section ##-##-##** is at least ten (10) feet in width.

- d. No more than fifty (50) percent of the parking spaces over the maximum parking allowed shall be located in the front yard.
3. **Calculations.** The following rules shall apply when calculating the specified maximum quantity of parking spaces.
    - a. **Area Measurements.** Parking calculations shall be based upon the definition of Gross Floor Area as defined in this UDO.
    - b. **Fractions.** When measurements of the maximum quantity of off-street parking spaces result in a fractional number, the resulting number shall be rounded up to the next higher whole number.
    - c. **Combined Uses on the Same Parcel.** When a combination of the uses in **Table #-#-##** are located on the same parcel, the maximum quantity of off-street parking allowed shall be the largest quantity allowed for any of the individual uses.
    - d. **Uses Not Listed.** Off-street parking spaces for uses not listed in **Table #-#-##** shall be provided for a use deemed similar, as determined by the Plan Commission.

**Table 15-5-01(B): Maximum Parking Requirements**

Use	Maximum Parking
<i>Residential Uses</i>	
Single-Family	2 / dwelling
Duplex	
Townhouse	1.5 / dwelling
Multifamily Building	
Multifamily Complex	
Multifamily, above ground floor only	
Community Living, 1-15 Persons	2 / dwelling
Community Living, 16 + Persons	3 / dwelling
Senior Housing, Assisted Living	1 / dwelling
Senior Housing, Nursing Care	0.5 / dwelling
Senior Housing, Total Life Care	
<i>Institutional</i>	
Educational Facility	As determined by the Plan Commission
Governmental Uses	
Health Care Facility	0.5 / bed for in-patient facilities; 0.5 / examining or operating room for out-patient facilities
Cemetery	As determined by the Plan Commission
<i>Place of Assembly</i>	
Indoor Commercial Place of Assembly, ##### sqft or less	1 / 3 Individuals at Maximum Occupancy
Indoor Commercial Place of Assembly, more than ##### sqft	
Outdoor Commercial Place of Assembly	
Noncommercial Place of Assembly, ##### sqft or less	
Noncommercial Place of Assembly, more than ##### sq ft	
<i>Recreation, Amusement, and Lodging</i>	
Campground	1 / camp site
Lodging House	1 / lodging unit
Hotel	
Recreation Area	
Short Term Rental	
<i>Retail Uses</i>	
Adult Establishment	1 / 250 sq ft
Retail, less ##### sqft or less	
Retail, More Than ##### sqft	1 / 200 sq ft
Multitenant Shopping Center	
Wholesale Establishment	1 / 250 sq ft
<i>Service</i>	
Animal Boarding Facility/Kennel and/or Veterinary Service	1 / 300 sq ft
General Service, ##### sqft or less	
General Service, more than ##### sqft	
Financial Institution	

Funeral Home	
Office, above ground floor only	
Office, ##### sqft or less	
Office, more than ##### sqft	
Office Complex/Business Park	
<b>Eating and Drinking Uses</b>	
Bar/Tavern	
Brewery/Winery/Distillery	
Brewery/Winery/Distillery Tasting Room	1 / 150 sq ft
Food Truck Court	
Micro Brewery/Winery/Distillery	
Restaurant	
<b>Vehicle Related Uses</b>	
Carwash	1 / stall
Vehicle Fuel Sales	1 / 250 sqft
Auto Sales/Rental and Service	1 / 500 sq ft
Major Automotive Repair	3 / Service Bay
Minor Automotive Repair	
<b>Agricultural</b>	
Community Garden	0.25 per garden plot or as determined by Plan Commission
Crop Production	1 or as determined by Plan Commission
Animal Husbandry	
Indoor Agriculture	
Nursery Retail	1 / 500 sqft
Nursery Wholesale	
<b>Industrial Uses</b>	
Artisan Manufacturing	
Brewery/Winery/Distillery	
Composting/ Recycling Facility	
Distribution Facility	1 / 1,000 sq ft
Equipment Rental, Sales, and Service	
Extractive Industry	
Heavy Industry	
Home Improvement Center/ Lumberyard	
Landfill	
Solid Waste Facility	
Light Industry	
Self-Service Storage Facility	1 / 1,000 sq ft
Storage Yard	
Warehouse	
<b>Utility and Transportation</b>	
Airport/ Heliport	As determined by the Plan Commission

Helistop	
Loading Areas, Parking Areas, and Landing Strips As a Principal Use	
Railroad Use	
Sanitary Sewer or Water Supply Lines	
Solar Farm	
Telecommunications Tower	
Wastewater Treatment Ponds and Facilities	
Waterborne Transportation Uses	
Wind Farm	
<b>Accessory Uses</b>	
Accessory Dwelling, Detached / Attached	1 / dwelling
Accessory Dwelling, Internal	
Accessory Retail	1 / 250 sq ft
Accessory Structure	
Artisan Workshop	
Drive Through	
Donation Drop Box	
Outdoor Activity/Operation/Storage	
Outdoor Dining	n/a
Outdoor Display/Sale of Merchandise	
Home Based Business	
Solar Energy Collection System, canopy	
Solar Energy Collection System, ground mounted	
Solar Energy Collection System, roof mounted	
<b>Temporary Uses</b>	
Construction Related	
Farmers Market	As required through Temporary Use Permit process
Food Truck Court	
Seasonal Sales	

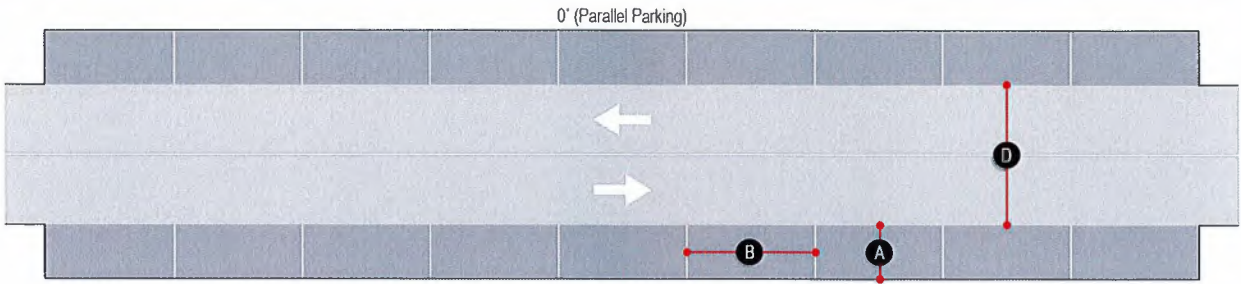
C. **Off-Street Parking Design, Location, and Size.** In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the regulations of this section.

1. **Access and Cross-Access.**

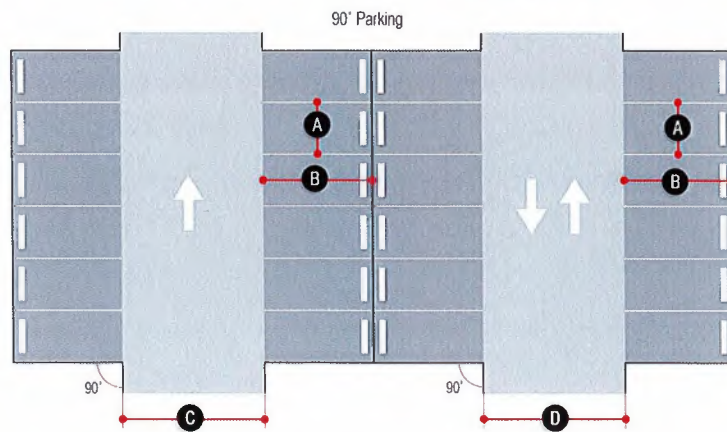
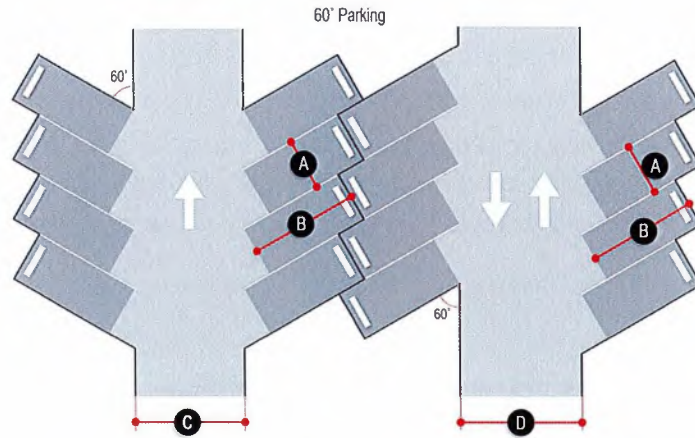
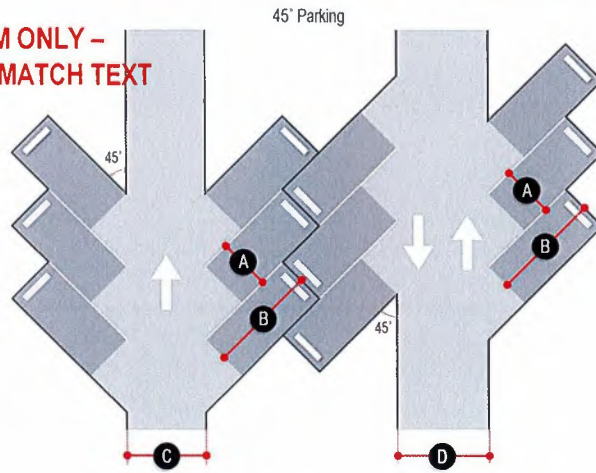
- a. **Access.** Adequate access to a public street shall be provided for each off-street parking lot. Each required off-street parking space shall open directly onto an aisle meeting the requirements specified in **Table #-###**.
- b. **Cross Access.** To facilitate vehicular access between adjoining developments and to minimize off-street parking area access points along streets and alleys, all development other than single-family residential development located on a lot fronting on a collector or arterial roadway shall comply with the following standards:
  - 1. Internal vehicular circulation systems shall be designed to allow for vehicular cross-access between the development's off-street parking areas and off-street parking areas in an adjoining non-single-family development, or to the boundary of an adjoining vacant parcel.

- II. Required vehicular cross access between adjoining off-street parking areas shall be provided through the use of a single two-way maneuvering lane or two one-way maneuvering lanes that comply with the requirements of **Table 15-5-01** are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
  - III. Vehicular cross access between off-street parking areas on adjoining lots shall cross the lot line at right angles or as close to right angles as possible to provide site access.
  - IV. The Zoning Administrator or their designee may waive or modify the requirement for vehicular cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area, would create unsafe conditions, or if the Zoning Administrator determines there exists an inability to connect to the adjacent property due to a site constraint.
  - V. Easements allowing cross access to and from properties served by a vehicular cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Milwaukee County Register of Deeds before issuance of a building permit for the development.
  - VI. **Zoning Administrator Waiver.** The Zoning Administrator or their designee may waive the cross access requirement in any instance in which site conditions, including lot configuration, topography, or size, would prohibit the connection's establishment when the waiver does not obviate state or county requirements.
2. **Standards For Parking Spaces, Aisles, and Parking Bays.** Minimum parking space and aisle dimensions shall be in accordance with the standards specified in **Table ##-#-##.**

Parking Angle (Degrees)	(A)	(B)	(C)	(D)	Depth of Interlocking Spaces	Overhang
	Space Width	Space Depth	Aisle Width (1-Way)	Aisle Width (2-Way)		
0	10'	22'	12'	18'	n/a	n/a
45	10'	17'	12'	18'	28.25'	1.5'
60	10'	18'	16'	18'	32'	1.5'
90	10'	18'	24'	24'	36'	n/a



**EXAMPLE DIAGRAM ONLY -  
REFERENCES DO NOT MATCH TEXT**

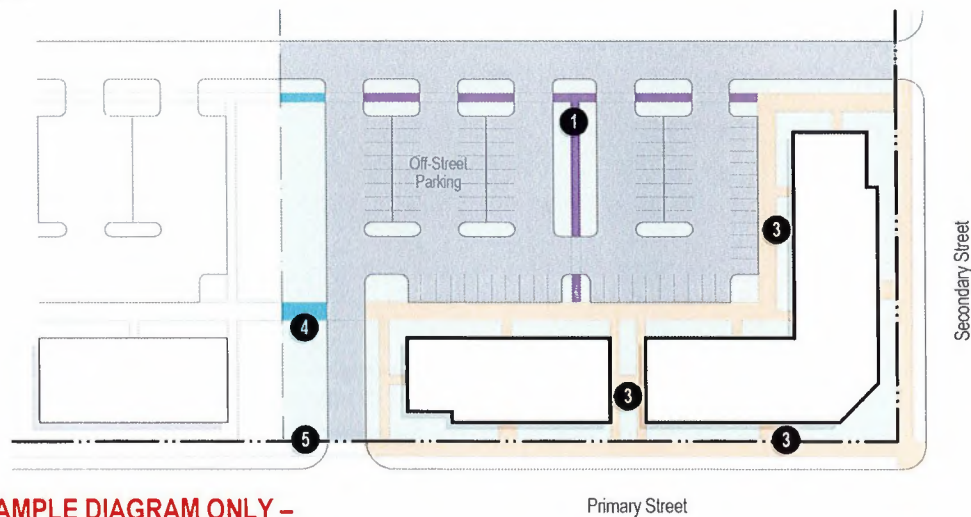


3. **Location on Lot.** Any off-street parking provided shall be located on the same lot as the use being served, or within the limits of a common parking lot serving one or more buildings.
4. **Setback Required.** Off-street parking spaces and aisles shall be set back from front, street side, interior side, and rear property lines as follows.
  - a. **In Residential Districts.** Off-street parking shall be set back at least six (6) feet from lot lines.
  - b. **In Nonresidential Districts.** Off-street parking shall be set back at least ten (10) feet from lot lines, except when a larger setback is explicitly required by this section.
5. **Minimum Distance of Truck Parking from Any Residential Zoning District.** No designated truck parking shall be allowed within one hundred fifty (150) feet of any residential district.
6. **Permanent Off-Street Parking Area Surfacing.** All permanent open, off-street loading and parking spaces shall be improved with a dust-free, all-weather paving system and stormwater management measures as approved by the City Engineer.
7. **Temporary and Event Off-Street Parking Area Surfacing.** All off-street parking serving a temporary use or event may be surfaced with grass or gravel subject to the approval of a temporary use permit as specified in **Section ##-#-##**.
8. **Edging and Stormwater Management.**
  - a. **Approved Edging and Stormwater Management Required.** Concrete curb and gutter, wheel stops, or an equivalent barrier sufficient to prevent cars from driving into or on any landscaped area shall be installed at the perimeter of all new off-street parking areas, and around all interior landscape areas. A barrier of a minimum of 4" in height generally shall be provided except where required to allow for stormwater inflows as part of an approved stormwater management plan. Curb and gutter shall not be required for additions to existing parking areas where curb and gutter is not present, is not installed on the adjacent street right-of-way, or is not anticipated to be constructed on the street right-of-way in a future street.
  - b. **Minimum Distance of Required Concrete Curbing from Property Lines.** Perimeter edging for off-street parking areas shall be installed a minimum of ten (10) feet from a property line as measured from the back of curb to prevent the parked vehicles from extending over any lot lines.
9. **Off-Street Parking Stalls.** Off-street parking stalls shall be marked by painted lines or other approved material and shall be maintained to be legible at all times.
10. **Parking of Trucks and Equipment.** The parking of trucks or other vehicular equipment of a commercial or industrial nature shall be allowed subject to the following regulations.
  - a. Agricultural equipment shall be allowed in the R-C - Conservation Residence, R-SE - Suburban/Estate Residence, A - Agricultural, or A-P - Agricultural Prime District.
  - b. The parking of any passenger automobiles, panel trucks, vans, or pick-up trucks, each individually exceeding eight thousand (8,000) pounds manufactured Gross Vehicle Weight in a residential district, P Park and Open Space, or I - Institutional District, FW - Floodway, GFP - General Floodplain, or FF - Floodfringe District shall require a Temporary Use Permit as specified in **Section ##-#-##**.
  - c. Any vehicle over eight thousand (8,000) pounds rated Gross Vehicle Weight may be parked in districts not previously mentioned in the normal course of business in conjunction with a commercial or industrial use of the subject property. Any overnight parking shall be allowed only with a Conditional Use.



11. Pedestrian Circulation Standards.

- a. Off-street parking areas serving multifamily, mixed-use, and nonresidential development and consisting of twenty (20) or more off-street parking spaces shall incorporate on-site circulation systems exclusively for the use of pedestrians and other non-motorists to navigate the site. Pedestrian circulation systems are encouraged in off-street parking areas with fewer than twenty (20) spaces but are not required.
- a. The on-site pedestrian circulation system shall comply with all ADA standards.
- b. The on-site pedestrian circulation system shall be marked, shall connect all buildings on the site to one another, and shall provide connections to required parking spaces.
- c. The on-site pedestrian circulation system must connect building entrances to adjacent public rights-of-way when public sidewalks are either existing or planned. The on-site pedestrian circulation system shall form a direct route between the building entrance and adjacent public right-of-way that does not require significant out-of-direction travel unless approved as follows.
  - i. For pedestrian circulations system with a significant out-of-direction travel, the applicant must submit sufficient evidence of the special conditions to support such alternative design. Special conditions may include, but not limited to, presence of natural resources, steep slopes, street grades, landscape features and building orientation or similar.
- d. The on-site pedestrian circulation system shall provide at least one (1) connection to all adjacent properties along a shared street frontage. Connections must provide access to existing walkways on adjacent properties, or to the likely future location of walkways on those properties. The Zoning Administrator may waive this requirement upon determining that no walkway exists, a future walkway is unlikely to exist, or such connection would create a safety hazard.



**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

**D. Snow Storage Requirements For Off-Street Parking and Loading Areas.**

1. **Snow Storage Prohibited in Required Off-Street Parking, Drive, and Loading Areas.** The storage of snow for more than forty-eight (48) hours is hereby prohibited in provided off-street parking, driveway, and loading areas.
2. **On-Site Snow Storage Standards for Parking and Loading Areas.** If an off-site snow repository is not used, adequate on-site snow storage shall be provided using the following standards:
  - a. A minimum site area representing ten (10) percent of the total required off-street parking or loading area, inclusive of access drives, shall be provided as the snow storage area.
  - b. The required snow storage area may be paved or unpaved. In either case, provision for adequate drainage of the snow storage area shall be provided to accommodate snowmelt, and no snowmelt shall drain onto abutting properties.
3. **Use of Setbacks, Yards, Bufferyards, and Stormwater Management Facilities for Snow Storage.** Required setbacks, yards, and bufferyards may be used to accommodate the required snow storage area. However, landscaped areas specified in **Section ##-#-##** shall not be used as snow storage areas. Stormwater management facilities shall not be used as snow storage areas unless specifically approved by the City Engineer as part of a stormwater management plan per **Section 15-18.0600 of the Franklin Municipal code.**

**E. Off-Street Bicycle Parking.**

1. **Location.**
  - a. Required bicycle parking shall be provided on the same lot as the use it is intended to serve.
  - b. Bicycle parking spaces shall be adequately lit and located such that they are highly visible from the street and/or building entrance(s) from points where bicyclists approach the site.
  - c. The location of bicycle parking shall not conflict with pedestrian and/or vehicle circulation.
  - d. Bicycle parking shall be sited within fifty (50) feet of a building's main entrance. If provided indoors, bicycle parking shall be located within a common area designated for secure bicycle storage.
  - e. Bicycle parking adjacent to a pedestrian walkway shall be sited to ensure that a minimum five (5) foot walkway clearance is maintained.
2. **Design Criteria.** All bicycle parking facilities shall be designed in accordance with standards established by the National Association of City Transportation Officials.
3. **Dimensional Standards.**
  - a. Each bicycle parking space shall be a minimum of six (6) feet in length.
  - b. Bicycle racks shall be located at least three (3) feet in all directions from any obstruction, including but not limited to other bicycle racks, walls, doors, posts, columns, or landscaping.
  - c. A minimum vertical clearance of seven (7) feet shall be maintained above all bicycle parking facilities.
4. **Off-Street Bicycle Parking Required.**
  - a. Bicycle parking as specified in this subsection shall be required for all multifamily residential, mixed-use, and nonresidential development. Vehicle-related uses as defined in this UDO shall be exempt from the requirement.
  - b. The number of required bicycle parking spaces shall be equal to five (5) percent of the off-street vehicle parking spaces provided, up to ten (10) required bicycle parking spaces.

- c. When the required amount of bicycle parking is less than two (2) spaces, the use shall provide a minimum of two (2) spaces in a bicycle parking area.
- d. Off-street bicycle parking spaces provided on vertical racks mounted on a building wall shall not count toward the minimum quantity required.

#### F. Electric Vehicle Charging Stations.

##### 1. OPTION 1 - REQUIREMENT

- a. **Applicability.** The requirements for electric vehicle charging stations shall apply to new parking lots or parking lots undergoing substantial rehabilitation as defined in **Chapter #: Nonconformities**.
- b. Any parking structure or parking area in the R-M - Multiple-Family Residence District shall install the infrastructure required to accommodate a minimum of one (1) electric vehicle charging station for every twenty-five (25) off-street parking spaces.
- c. Any parking structure or parking area in a commercial or mixed-use district shall install the infrastructure required to accommodate a minimum of one (1) electric vehicle charging station for every fifty (50) off-street parking spaces.
- d. Required electric vehicle charging stations shall comply with the use-specific standards for electric vehicle charging stations in **Section #-#-##**.

##### 2. OPTION 2 - INCENTIVE

- a. **Applicability.** All parking lots may utilize the Electric Vehicle Charging Station incentive.
- b. For any applicant providing ten (10) or more electric vehicle charging stations on-site, twenty (20) percent of the applicable permit fee required per the City of Franklin fee schedule may be waived by the Zoning Administrator.
- c. Electric vehicle charging stations shall comply with the use-specific standards for electric vehicle charging stations in **Section #-#-##**.

#### G. Off-Street Loading.

1. **Purpose.** The purpose of this Section is to prevent congestion of public rights-of-way and private lots to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
2. **Location.** All required loading spaces shall be located on the same lot as the use served. No permitted loading space shall be located within forty (40) feet of the nearest point of intersection of any two streets. No loading space shall be located in a required side yard abutting a parcel in a residential zoning district, a parcel with an existing residential use, or in a required front yard.
3. **Access.** Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. Loading spaces on lots located adjacent to public ways shall be so situated as to enable the vehicles to back into the loading dock from areas other than public ways unless as otherwise approved by the Plan Commission. The blocking of loading spaces by other loading spaces, permanent or moveable structures of any type, including trash receptacles or compactors, shall be prohibited.
4. **Surfacing.** All open, off-street loading and parking spaces shall be improved with asphalt, concrete, or a permeable paving system approved by the City Engineer, and with stormwater management facilities as approved by the City Engineer.
5. **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential or nonresidential zoning districts.

6. **Maneuvering Space Required to Service Outdoor Loading Areas.** Adequate off-street truck maneuvering area shall be provided on-site and shall not interfere with internal site circulation, ingress or egress to the site, access to or use of required off-street parking areas and pedestrian circulation areas. Maneuvering areas shall not be provided within any public street right-of-way or other public lands except as may be allowed by the Plan Commission for properties in the B-P - Business Park and LI - Limited Industrial Districts where permanently dead-ended streets and cul-de-sacs may serve as off-street truck maneuvering. The Plan Commission shall consider the number of proposed loading docks, the proposed use and frequency of loading and unloading and the number of businesses located on the dead-end street or cul-de-sac and determine that the adjacent businesses will not be adversely impacted or affected.
7. **Interference With Fire Exit or Emergency Access Prohibited.** Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency access facilities to either a building or site.
8. **Required Loading Spaces.** The number of loading spaces provided shall be determined by the developer and shall provide for adequate space for standing, turning, loading, and unloading services in a manner that does not interfere with vehicle or bicycle parking, drive aisles, pedestrian walkways, or landscaped areas.

### 15-5-02. Driveways

- A. **Driveways on Controlled Access Arterials and Highways Prohibited.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways or to any controlled access arterial street without permission of the highway agency with access control jurisdiction.
- B. **Right Angles Required.** Driveways shall cross the lot line at right angles or as close to right angles as possible to provide site access.
- C. **Arterial Street and Highway Access and Street Intersections.** No new direct public or private access shall be permitted to an arterial street or highway within one-hundred and fifteen (115) feet of the intersection of the right-of-way lines of another arterial street or highway unless approved by the Plan Commission.
- D. **Single-Family and Duplex Driveway Standards.** A single slab or ribbon driveway from the property line to legal, on-site parking shall be provided and shall be in conformance with the following criteria.
  1. **Limit of One.** One (1) single slab or ribbon driveway and one (1) curb cut shall be permitted per seventy-five (75) feet of lot frontage.
  2. **Single-Slab Driveway Design Standards.**
    - a. Single-slab driveways shall not exceed twenty (20) feet in width at the property line.
    - b. **Surfacing.**
      - I. Single-slab driveways shall be surfaced with an all-weather, dustless concrete material which may include decorative concrete, patterned concrete, exposed aggregate concrete, concrete pavers, permeable paver blocks, or similar materials approved by the City Engineer.

#### Asphalt Surfacing Option 1 - Allowance for Driveways Constructed Prior to UDO Adoption

- II. Single-slab driveways surfaced with asphalt and constructed prior to the adoption date of this UDO **MM/DD/YYYY** shall be allowed to continue or be reconstructed in kind.

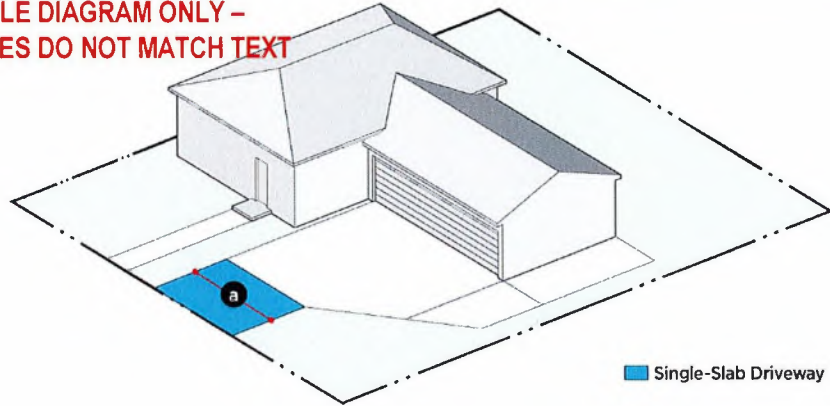
#### Asphalt Surfacing Option 2 - Allowance for Driveways Over a Set Length

- III. Driveways longer than fifty (50) feet may be surfaced with asphalt.

#### Asphalt Surfacing Option 3 - Allowance for Driveways in Low-Density Residential Districts.

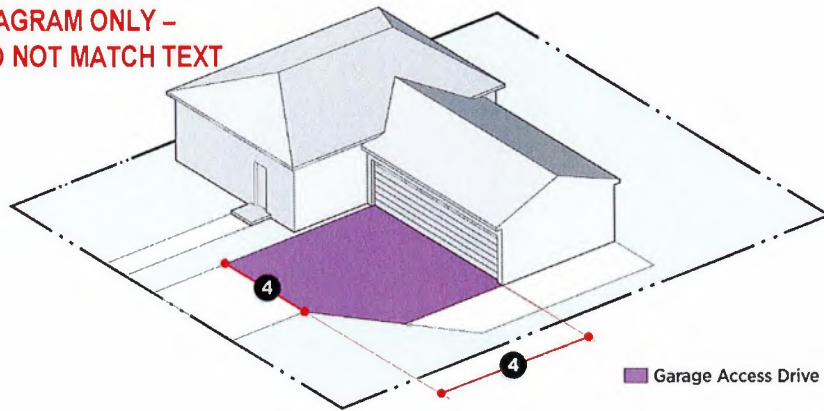
- IV. Driveways on lots in the R-C - Conservation Residence District and R-SE Suburban/Estate Residence District may be surfaced with asphalt.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



3. **Garage Access Drive.** A garage access drive is permitted and shall meet the standards below.
  - a. **Width.** The maximum width of a garage access drive shall be the width of the garage, as measured from the garage door(s) plus an additional three (3) feet on either side of the garage door(s).
  - b. **Length.** The maximum length of a garage access drive shall be sixteen (16) feet from the garage doors.
  - c. **Taper.** The garage access drive shall taper, within ten (10) feet, back to the maximum driveway width.
  - d. **Surfacing.** Garage access drives shall adhere to the surfacing requirements for single-slab driveways in **Section ###-##-##**.

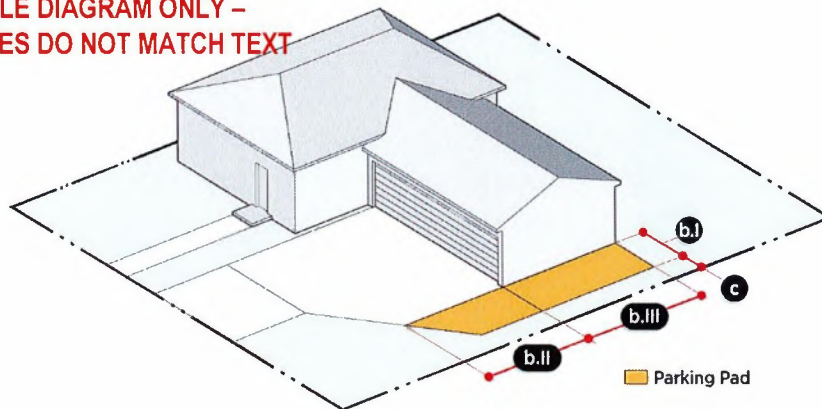
**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



#### 4. Parking Pad.

- a. **Limit of One.** A garage access drive may be extended to include one (1) parking pad.
- b. **Configuration.**
  - I. A parking pad shall be a minimum of nine (9) feet and a maximum of ten (10) feet in width.
  - II. The portion of the parking pad adjacent to the garage access drive shall have a maximum length of twenty (20) feet, as measured from the front façade line of the garage. A minimum seven (7) foot taper shall be included in the twenty (20) foot maximum.
  - III. The portion of the parking pad adjacent to the garage shall have a maximum length equal to the depth of the garage, as measured from the front façade line of the garage.
- c. **Location.** The parking pad shall be set back a minimum of five (5) feet from any side property line.
- d. **Screening.** A fully opaque fence with a minimum height of six (6) feet shall be constructed in the side yard abutting the parking pad.
- e. **Surfacing.** A parking pad may be surfaced with asphalt, concrete, grass, gravel, or a permeable paving system. The first half (1/2) inch of runoff over the entire surface shall be treated with green infrastructure if the parking pad is surfaced with asphalt or concrete.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



## E. Townhouse, Multifamily, and Nonresidential Driveway Standards.

### 1. Location.

- a. Where an off-street parking area of a corner lot abuts an alley or a corner side street, access to the off-street parking area shall be obtained from a driveway off the alley or corner side street.
- b. No lot other shall have multiple driveways for purposes of vehicular ingress and egress without a minimum three hundred (300) foot separation between such curb cuts along a street, unless otherwise approved by the City Engineer.

GRAPHIC IN DEVELOPMENT

### 2. Townhouse Driveway Design Standards.

- a. One-way driveways for townhouse uses shall be a minimum of ten (10) feet wide and a maximum of twenty (20) feet wide at the property line.
- b. Two-way driveways for townhouse uses shall be a minimum of twenty (20) feet and a maximum of thirty-three (33) feet in width at the property line.
- c. Driveways for townhouse uses shall comply with the surfacing standards for single-slab driveways as specified in **Section ##-#-##**.

GRAPHIC IN DEVELOPMENT

### 3. Multifamily and Nonresidential Driveway Standards

- a. One-way driveways for multifamily and nonresidential uses shall be a minimum of ten (10) feet wide and a maximum of thirty-three (33) feet wide at the property line.
- b. Two-way driveways for multifamily and nonresidential uses shall be a minimum of twenty (20) feet wide and a maximum of thirty-six (36) feet wide at the property line.
- c. Driveways for multifamily uses shall comply with the surfacing requirements for single-slab driveways in **Section ##-#-##** above. Asphalt shall be prohibited for driveways serving lots with a nonresidential use.
- d. Islands between the vehicle lanes in opposing directions shall be provided at driveway openings with a minimum width of twelve (12) feet and located six (6) feet from all lot lines.
- e. **Setbacks Required.**
  - I. **Pedestrian Entrance.** Driveways for all retail, service, eating and drinking, vehicle-related, and industrial uses shall be at least two hundred (200) feet from any pedestrian entrance to any institutional or place of assembly use.
  - II. **Property Line.** No driveway shall be located closer than ten (10) feet to any front, street side, side, or rear property line except as follows.
    - i. Where a shared driveway between neighboring lots or parcels is provided to serve as access to a State or County Highway for the purposes of highway safety as approved by either the Wisconsin Department of Transportation or Milwaukee County Highway Department, any minimum driveway setback as required by this Section may be waived, provided that such waiver of setback is for the shared driveway that is constructed over or abutting property lines of lots or parcels that benefit from the shared driveway.



- ii. Approved access points to public streets or cross access between neighboring properties as required in **Section ##-#-##** may be allowed to cross the required setbacks at or as close to right angles as possible to provide site access.

#### GRAPHIC IN DEVELOPMENT

- f. **Edge Barrier Required.** Concrete curb and gutter, or an equivalent barrier of a minimum of four (4) inches in height, shall be installed along the length of all new driveways serving multifamily, mixed-use, or nonresidential development.
  - I. The edge barrier may be interrupted where necessary to provide for stormwater outflows.
  - II. This provision may be waived by the Plan Commission for additions to existing structures located in areas without a predominance of curb and gutter when curb and gutter is not installed on the adjacent street right-of-way or is not anticipated to be constructed on the street right-of-way in a future street reconstruction in a reasonable period of time.

### 15-5-03. Required Landscaping

- A. **Landscaping Required.** Landscaping is required in the form of on-lot landscaping, street bufferyards, peripheral bufferyards, and in off-street parking areas and in areas where vegetative mitigation (see **Section 15-4.0103** of this Ordinance) is required. The area and/or length of each, as required herein must be measured in order to determine the amount of landscaping required.
- B. **Exemptions and Modifications.** All developments shall meet the provisions of this Division except as specifically exempted below:
  - 1. Residential Development on Existing Lots of Record in the A - Agricultural, A-P - Prime Agricultural, and Residential Districts.
  - 2. Additions to Existing Buildings where the Total Floor Area is not Increased More than Ten (10) Percent. Additions to existing buildings where the total floor area is not increased more than ten (10) percent of the existing total floor area.
  - 3. Additions to Buildings Which Increase Overall Building Area from Ten (10) to Fifty (50) Percent. Additions to buildings which increase their overall building area from ten (10) to fifty (50) percent shall conform to the landscaping standards set forth in this Division reduced by up to thirty (30) percent.
  - 4. Floodplain and Wetland Areas. Areas located within the FW - Floodway and FF - Floodfringe Districts are exempt from the landscaping requirements set forth in this Section except where mitigation or restoration is required by this UDO.
- C. **Bufferyards to Ameliorate Nuisances Between Certain Adjacent Zoning Districts.** A bufferyard is a combination of a setback and a visual buffer or barrier and is a yard or area together with the planting and/or landscape structure required thereon. The amount of land, the type of planting, and the amount of planting specified for each bufferyard requirement of this UDO are designed to ameliorate nuisances between certain adjacent zoning districts. Bufferyards are also designed to ensure a desired character along public streets and roads.
- D. **Bufferyards Required to Separate Different Zoning Districts.** Bufferyards shall be required to separate different zoning districts from each other. Bufferyards function to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
- E. **Integration with Stormwater Management.** Vegetated features designed and installed to provide stormwater infiltration or treatment, including but not limited to bioretention areas or rain gardens, vegetated swales, or deep-rooted plantings with amended soils, may be incorporated into landscaped areas and bufferyards required under this Section. The plant selection requirements of this Section may be varied in order to accommodate planting plans specific to a vegetated stormwater

infiltration or treatment area, provided the overall landscaping and/or screening plan installed is equivalent or greater to the amount required under this Division.

**15-5-04. Minimum Landscape Standards.**

A. **Standard Plant Units.** This Section defines the standard plant unit and its definitions of this Section. The following **Table 15-5.0302** specifies the plant unit requirements. Tree requirements shall refer to the diameter measured six (6) inches above root flare. For purposes of this Section, bioretention plantings shall be equivalent to small flowering shrubs or native grasses/forbs at a rate of 9 SF of plantings per large deciduous shrub, small flowering shrub, or native grass/forb.

**Table 15-5-0302(A): Standard Plant Units**

Planting Type	Planting size		Land Use Type		
	Minimum Diameter/Size	Minimum Height	Multi-Family	Retail, Service, Institutional, Place of Assembly, Vehicle-Related, and Similar	Industrial
Canopy/Shade Tree	3" diameter at 6" above root flare	--	1.5/ dwelling unit	1/5 parking spaces	1/10 parking spaces
Evergreen Tree OR Ornamental Tree	-- 3" diameter at 6" above root flare	6' --	1/dwelling unit	1/5 parking spaces	1/10 parking spaces
Evergreen Shrub OR Large Deciduous Shrub	18" wide --	-- 3'			
Small Flowering Shrubs OR Native Grasses/Forbs OR Bioretention Plantings	-- 1 gallon pot	18" --	3/dwelling unit	1/5 parking spaces	1/10 parking spaces
	3" - 4" pot (or as specified by Landscape Architect)				

B. **Definition and Conditions.** The following definitions and conditions shall apply to the application of **Table 15-5.0302**.

1. **Trees.**

- a. Canopy/Shade trees are deciduous trees providing over-hanging canopy at maturity.
- b. Evergreen Trees refers to coniferous trees, tamarack trees, and upright-growing arborvitae; bush-type arborvitae may be used as an Evergreen Shrub.
- c. Ornamental Trees are flowering and/or fruit bearing trees, normally growing to full growth shorter than a shade tree.

**GRAPHIC IN DEVELOPMENT**

- 2. The number of plantings required per parking space shall be rounded to the next highest range. For example, fifty-two (52) spaces in a commercial development shall require eleven (11) shade trees, not ten (10).
- 3. The minimum number of plantings shall be five (5) per property for each type.
- 4. The minimum amount of landscaping shall be twenty (20) canopy/shade trees per acre, twenty (20) evergreen trees per acre, ten (10) ornamental trees per acre, and thirty (30) small shrubs per acre. Each acre shall be divisible, rounded to the next number of plantings (i.e., 1.68 acres = 34 shade trees).

5. In the event ornamental trees and/or shrubs are not appropriate for a development, then those types may be replaced by the following schedule:
    - a. One (1) canopy/shade tree for every one (1) required ornamental tree.
    - b. One (1) canopy/shade tree or evergreen tree for every two (2) required large deciduous or evergreen shrubs.
  6. In the event evergreen trees are not appropriate for a non-multi-family development, then each required evergreen tree may be replaced by a canopy/shade tree.
  7. Tree requirements are stated in terms of the required diameter measured six (6) inches above root flare.
- C. **Bufferyard.** When development abuts or is across a street from a residential zoning district or existing residential use, or an existing, less intensive use as determined by the Zoning Administrator the following bufferyard requirements shall apply:
1. Additional planting density shall be required; for the site as a whole, the minimum density of plantings required in **Table 15-5.0302** shall be increased by twenty (20) percent.
  2. Emphasis shall be on placing the increased amount of plantings within the bufferyard, except where preservation of existing plant material does not allow additional plantings, or where a combination of fencing and landscaping is provided to accommodate vegetated stormwater management areas.
  3. A combination of evergreen trees (which may include arborvitae), other deciduous vegetation, and fencing are recommended within the buffer yard. The minimum planting height of evergreens and fencing at installation shall be six (6) feet.
  4. On-site pedestrian circulation systems provided on-site, whether required in **Section 15-5-##** or not, may traverse a bufferyard required in this subsection subject to Zoning Administrator approval.

GRAPHIC IN DEVELOPMENT

- D. **Credit For Preserved Existing Plant Materials.** The preservation of healthy, existing plant materials is strongly encouraged. [REF TO NATURAL RESOURCE STANDARDS – removal of invasives] Where plant materials and trees are to be preserved on the site, the following shall apply:
1. In a non-bufferyard landscape area, preservation of existing canopy/shade trees, evergreen trees, and ornamental trees over six (6) feet in height with a minimum diameter of three inches (3") measured six inches (6") above root flare shall replace one (1) equivalent type of required planting.
  2. In a bufferyard landscape area, existing canopy/shade trees, evergreen trees, and ornamental trees over six (6) feet in height shall replace one-half (1/2) an equivalent type of required planting.
  3. In either a non-buffer or bufferyard, existing large deciduous or evergreen shrubs over five (5) feet in height shall replace one (1) required large shrub planting.
  4. Plantings to be preserved including exact location, size, and type shall be shown on the submitted landscape plan and in any required maintenance and replacement schedules. The City Forester may be consulted to determine the likelihood of survival of canopy/shade, evergreen, and ornamental trees through construction, and may specify required measures for construction-phase protection as a condition of approval of the landscape plan.
- E. **Alternative Minimum Landscape Surface Ratio.** Use of the Alternative Minimum Landscape Surface Ratio shall require a minimum diameter measured six (6) inches above root flare of three (3) inches for canopy/shade trees and two (2) inches for ornamental trees, and a minimum height of six (6) feet for evergreen trees, along with an increase by twenty (20) percent of the minimum quantity of plantings required by [Table 15-5.0302](#). If a bufferyard is present, then the required quantity of plantings increases to thirty (30) percent.
- F. **Ground Cover.** All areas not covered by buildings or paving shall be covered with landscaping. The specific type(s) of groundcover to be used shall be shown on the landscape plan.
1. Open areas not covered by formal landscape plantings shall be planted with deep-rooted plantings (which may include native short-stature grasses or forbs), low growing ground cover, or other living landscape materials, except where existing natural vegetation of the site makes such plantings impossible.
  2. The use of conventional sod or turf grass as ground cover should be limited to those areas planned for active or passive recreation use, or other areas where substantial use of the area is anticipated.
  3. The use of low-growing ground cover on slopes to provide stabilization and where appropriate, pollinator habitat, is encouraged.
  4. The use of salt-tolerant species is recommended in all parking lot landscaped islands and perimeter areas.
  5. Low-growing ground cover such as Barren Strawberry (*Waldsteinia*) is preferred to grass. The use of stone, wood chips, artificial or plastic mulches, or other non-living material to cover more than twenty-five (25) percent of any parking lot landscaped island shall be prohibited.
- G. **Placement.** Generally, placement of all types of plantings shall be dispersed across the entire site at discretion of developer, with the following minimum guidelines:
1. Species of plantings best suited for high traffic areas shall be placed in the highest vehicular and pedestrian traffic areas.
  2. Native species of canopy/shade trees should be placed away from the highest vehicular and traffic areas.
  3. Plantings shall be located so as not to obscure vehicle sight lines.
  4. Plantings shall be located so future growth is not over a sidewalk or parking/ drive area.
  5. Plantings shall be located to soften tall and long building walls.

6. Plantings within buffer yards, in combination with any fencing provided, shall provide visual opacity within two (2) years of planting.
7. Any fruit, nut, or seed-bearing trees shall be located away from parking/drive areas and pedestrian walkways.
8. Canopy/shade trees and evergreen trees shall be separated from one another to ensure the health and longevity of the trees. In no instance shall canopy/shade or evergreen trees be located closer than five (5) feet from one another.

**H. Landscape Plan Contents.**

1. Landscape Plans shall be prepared by a professional Landscape Architect or Landscape Designer. Each Landscape Plan shall include:
  - a. Preparer's name and date of preparation.
  - b. A base site plan that matches the site plan submitted for approval, showing planting locations and existing plantings to be preserved, and the Landscape Surface Ratio percentage.
  - c. A planting schedule of common names, botanical names, and planting sizes and quantities of all planting materials and ground cover.
  - d. Calculations showing how the plan meets or exceeds the minimum quantity of plant materials required, including calculations of preserved plant materials, landscape area plantings, and bufferyard plantings.
  - e. A diagram or plan showing the integration of drainage patterns and stormwater management measures with landscape areas.
2. Landscape Plans shall be submitted with the initial application subject to the following procedures.
  - a. An applicant must at a minimum file a preliminary landscape plan generally depicting the landscaping for the site at the time of initial application filing.
  - b. Landscape Plans must be approved by the Zoning Administrator and, where integrated with a Stormwater Management Plan, the City Engineer.

## 15-5-05. General Landscaping Requirements

- A. **Physical Containment of Landscaped Areas.** All landscaped areas located within or adjacent to a parking area, or adjacent to a public street or sidewalk, shall be designed to contain landscape materials and to prevent vehicular encroachment through the use of concrete curbing, headers of a minimum four (4) inches in height, or wheel stops.
- B. **Artificial Landscape Materials.** Artificial trees, shrubs, turf, or plants shall not be permitted as landscaping.
- C. **Groundcover.** The use of landscape fabrics or mulches under all areas landscaped with non-living materials, except as required per an approved stormwater management plan, is recommended to prevent weed growth.
- D. **Irrigation.** Appropriate on-site, outdoor water supply (e.g., underground or drip irrigation, hose bibs, etc.) that provides complete coverage to all new living landscaped areas sufficient to provide for plant establishment and ongoing maintenance is required. Watering systems shall be designed to water landscaped areas efficiently and avoid irrigation of adjacent parking areas and access drives, sidewalks, buildings, and public streets. If hose bibs are used, they must be located within one hundred (100) feet of any landscaped area. Temporary or permanent irrigation of bioretention areas or other vegetative stormwater management areas shall be implemented per an approved Stormwater Management Plan, or as specified by a Landscape Architect or landscape designer on the approved landscape plan.
- E. **Location.** New vegetation shall be selected, planted, and maintained so that at maturity it will not interfere with utility lines, snow storage areas, vehicular parking, pedestrian circulation, traffic sight visibility at driveways and street intersections, and will not cause damage or upheaval of sidewalks and pavement.
- F. **Installation.**
1. **Timing of Installation.** Landscaping and irrigation shall be installed in accordance with the approved landscape plan prior to issuance of a Zoning Compliance Permit or commencement of operations. The City will have the right to refuse approval of any project not meeting the provisions of this Section.
  2. **Surety to Include the Cost of Ground Cover.** The cost of vegetative ground cover shall be reflected in the financial surety held in accordance with this Division.
  3. **Return of Financial Surety.** When it is determined that the landscaping and watering systems have been installed in accordance with the approved plans, the City shall return the surety to the applicant.
- G. **Maintenance.**
1. **Responsibility for Maintenance.**
    - a. Maintenance of all landscaping shall be the responsibility of the owner, lessee, heirs, assigns, agents, homeowners' association, or other liable entity of the property and shall consist of regular watering, pruning, mowing, fertilizing, removal and replacement of irrigation systems, and architectural features.
    - b. The owner or liable entity in control of any private premises shall at all times maintain the premises free of litter and weeds.
    - c. Landscape maintenance shall be coordinated, where applicable, with maintenance provisions in an approved Stormwater Management Plan.
  2. **Landscape Phasing.** Future building pads within a phased development shall be maintained in a dust-free condition vegetated with groundcover.
- H. **Preservation of Existing Trees During Grading.** During grading operations, those existing trees to be preserved and retained as a part of the subdivision, certified survey map, or condominium approval (See [§ 15-8.0204](#) of this Ordinance) shall be protected through the following measures:

1. All trees to be retained shall be identified on site by flagging tape. Trees selected for transplanting shall be flagged with a separate distinguishing color.
  2. Construction limit fencing shall be erected at the perimeter drip line of all trees to be retained and all protected areas as identified in a Natural Resource Protection Plan. Tree protection devices shall be installed where required over tree roots, branches and/or tree trunks, as identified in the Natural Resource Protection Plan.
  3. Fences and tree protection devices installed shall be maintained and all construction materials, supplies and equipment shall be kept outside of the protected areas throughout construction.
- I. **Plant Replacement.** Any plant materials included in an approved landscaping plan that do not survive a plant establishment period of two (2) years after installation shall be replaced with plant material(s) of the same or like species of equal size within the next planting season, but in any event, within six (6) months of the plant's demise. Said replacement shall be made by the property owner or, in the case of landscape plant materials located within a landscape easement under the control of a homeowners' association, the homeowners' association shall be responsible for said replacement.
- J. **Plant Material Species Mixture.**
1. All landscape plant materials selected shall be adequately mixed so that no singular species exceeds forty (40) percent of the total planting requirements. Where four (4) or more canopy/shade trees are to be installed, at least two (2) species of canopy/shade tree must be installed that include one or more species suitable to the region, such as but not limited to Sugar Maple, Red Maple, Red Oak, Tilia Americana and improved cultivars, or Hybrid Elm.
  2. For every ten (10) trees a minimum of three (3) different species are recommended.
  3. Trees shall be selected from a tree species list as recommended by the City Forester.
- K. **Invasive Species Prohibited.** Plant species listed in WI Ch. NR 40 invasive species plant list shall not be used in any landscape areas.

## 15-5-06. Minimum Landscaping Standards for Off-Street Parking Areas and Lots

- A. **Minimum Landscaping Requirements for Residential, Mixed-Use, and Nonresidential Off-Street Parking Areas and Lots.** Each residential, mixed-use, and nonresidential off-street parking lot shall contain landscaping within the parking lots, along the perimeter of parking lots, and along adjoining entrance drives and circulation drives.
1. A minimum of ten (10) percent of the interior area of the parking lot shall be landscaped, with a minimum total interior planting area of three hundred (300) square feet.
  2. The minimum dimension of any planting area shall be nine (9) feet by eighteen (18) feet, with a minimum planting depth of three (3) feet.
  3. A minimum of two (2) cubic feet of soil volume per one (1) square foot of projected tree canopy at maturity shall be provided per canopy/shade or ornamental tree planted in an interior parking lot island.
  4. In general, larger, contiguous planting areas are preferred over smaller planting areas in order to promote healthy plant growth.

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- B. **Existing Vegetation May Count Toward the Provision of Minimum Off-Street Parking Landscape Requirements.** Existing trees that can, in the opinion of the City Forester, be preserved in a healthy condition after construction, shall count toward the minimum off street parking landscape requirements. The City Forester shall find that conditions during and after construction:
1. Shall not cut off the tree from a reasonable supply of water,

2. Shall incorporate sufficient soil volume (i.e. 2 cubic feet of soil per 1 square foot of projected canopy area at maturity) and protected from compaction, with the area under the canopy remaining undisturbed; and
  3. Plantings that are preserved within parking lot islands shall be located within islands with a minimum of three hundred (300) square feet in area.
- C. **Barriers Required to Contain Landscape Areas.** The barrier around landscape areas may incorporate wheel-stops, provided the area of vehicle overhang does not exceed two (2) feet and does not damage or interfere with the landscaping. Where vehicle overhangs abut required landscape areas, a minimum five (5) foot wide planting area is required for a single vehicle overhang, and an eight (8) foot wide planter for a double vehicle overhang is required. Vehicle overhang into the public right-of-way is not permitted.
- D. **Uses Not Permitted in Required Landscaped Areas.** Parking (except where vehicle overhang is permitted), buildings, and display of equipment or vehicles are not permitted in required landscaped areas. Required landscaped areas shall not be used for snow storage.
- E. **Required Landscape Materials Not to Constitute a Driving Hazard.** To ensure that landscape materials do not constitute a driving hazard, trees used to landscape parking islands shall have a clear trunk height of six (6) feet; mature shrubs, groundcover, or other landscaping material shall not exceed three (3) feet in height. The landscaped area within these planters may be used to satisfy, to the extent provided, the landscaping requirements.

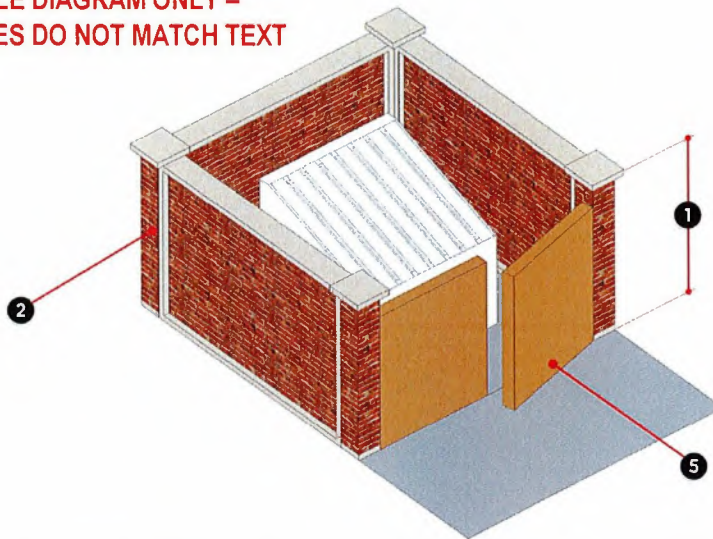
### 15-5-07. Screening

- A. **Grease Traps, Trash, and Recycling Receptacles.** The following regulations shall apply to all nonresidential, mixed use, and multifamily development.
1. **Visibility From Public Right-of-Way Prohibited.** Grease traps, trash, and recycling receptacles shall be located to be completely concealed from visibility from any public right-of-way. The Zoning Administrator may provide an exemption from these requirements when the Zoning Administrator determines that the site's conditions require the exemption.
  2. **Screening Required.**
    - a. Grease traps, trash, and recycling receptacles shall be screened on three (3) sides with a solid, opaque material with a minimum height of six (6) feet and a maximum height of eight (8) feet.
    - b. Materials used for screening shall complement the exterior building cladding materials of the primary building.
    - c. Materials and elevations for enclosures that are attached to buildings shall be designed to be integrated into the primary building.
    - d. If enclosures are to be attached to buildings, they shall comply with applicable fire and building codes.
    - e. Shrubs, native grasses, or other vegetation shall be installed along the exterior of the enclosure, except for the enclosure openings, to provide a softening effect.
    - f. Enclosure openings shall be gated with an opaque material.
    - g. Enclosure openings shall be kept closed at all times except for when the receptacle is being accessed.
    - h. Property owners shall be responsible for ensuring that grease traps, trash, and recycling receptacles be placed in the enclosure at all times other than when it is being accessed.
    - i. Access drives shall be constructed of materials and to a thickness which accommodates truck loading. Year-round access to the enclosure area for service trucks shall be maintained by the property owner or tenant.
    - j. Enclosures shall be of an adequate size to accommodate expected containers. The enclosure shall be designed to be expandable to accommodate future additional containers.



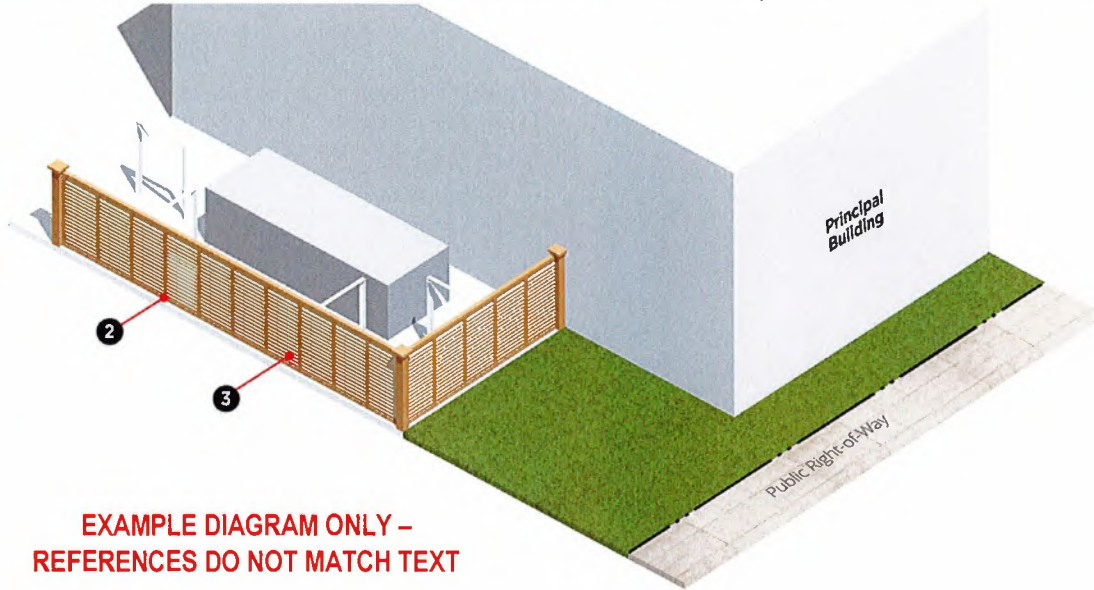
- k. All enclosures shall be curbed, graded and drained in a manner that prevents the discharge of contaminated runoff to surface waters or storm drainage facilities.
- l. Enclosure structures shall be designed to protect the walls from damage by containers. Such protection may be provided by the use of barrier curbing, reinforced masonry walls, or other similar means.
- m. Grease traps, trash, and recycling receptacle enclosures shall not occupy areas used for required parking spaces.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



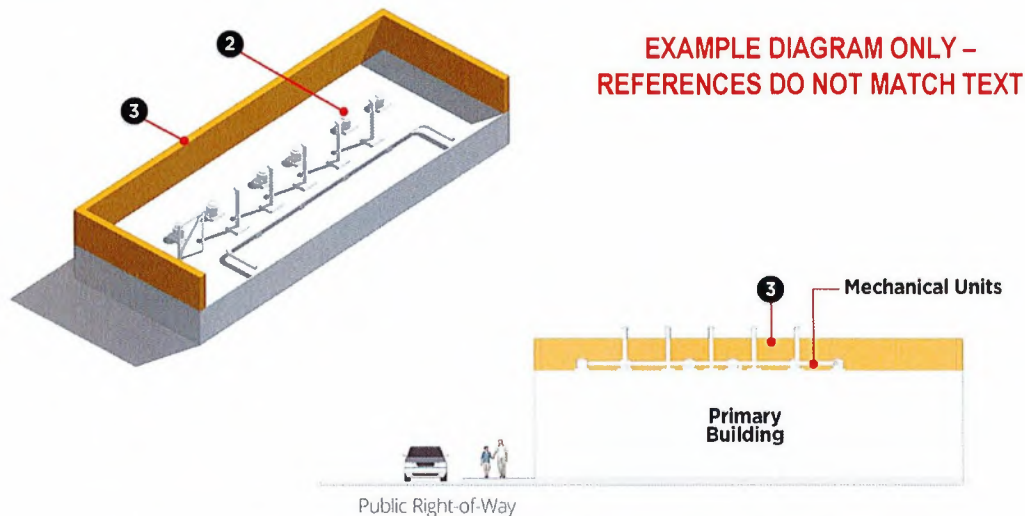
- B. **Ground/Wall Mounted Mechanical Units.** The following regulations shall apply to all ground/wall-mounted mechanical units, including but not limited to generators, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment. Tanks and / or silos accessory to a brewery, winery, and/or distillery or microbrewery, microwinery, or microdistillery are exempt from these requirements.
  - 1. Locating mechanical units within the primary building is strongly encouraged to minimize exterior visual impacts. Ground-mounted mechanical units are prohibited within the front yard, regardless of whether screening is provided.
  - 2. Ground/wall mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be screened from public view.
  - 3. Materials used for screening shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen. Evergreen hedges or non-transparent walls such as stone masonry shall be allowed.

- Chain-link fence or slats in chain-link fence shall not be used to meet this requirement.

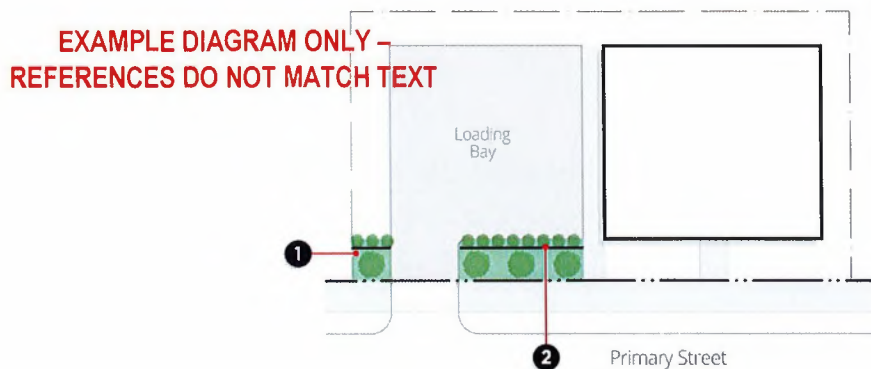


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- C. Roof Mounted Mechanical Units.** The following regulations shall apply to all roof mounted mechanical units, including but not limited to air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment which service multifamily, non-residential, or mixed-use developments.
  - Locating mechanical units within the primary building is strongly encouraged to minimize exterior visual impacts.
  - Roof mounted mechanical units that are visible from the closes right-of-way line or adjacent residential property shall be completely screened from public view from those locations.
  - Materials used for screening shall be architecturally integrated with the building and shall be continuous and permanent.
  - Screening shall be required when new equipment is installed and shall be provided around both new and existing roof mounted mechanical units in order to provide visual continuity. Normal maintenance of roof mounted mechanical units shall not mandate the screening requirements.
  - Additional screening may be required due to topographic differences in the adjoining properties.



- D. **Off-Street Loading Areas.** Off-Street loading areas that are visible from any property in a residential district shall be completely screened from view with a bufferyard as specified in **Section #-#-##**.



## 15-5-08. Fencing

### A. General Provisions.

1. **Maintenance Required.** All fences shall be maintained in good repair and in structurally sound condition. All fences shall be constructed and maintained in a good aesthetic condition and of such materials and colors so as not to adversely affect the value, visual character, and visual appeal of adjoining property or property in the immediate neighborhood. All fences shall be constructed and maintained straight, plumb, and of an even height along its length, except for such deviations as required by grade.
2. **Building Permit Required.** No fence shall be constructed in the City without first obtaining a Building Permit as specified in **Section #-#-##**.
3. **Material Storage Prohibited.** No materials shall be stored between a fence located adjacent to a lot line and the lot line. No materials shall be stored against the fence on its interior side.
4. **Snow Fencing Allowed.** Snow fencing will only be allowed between November 15<sup>th</sup> and April 15<sup>th</sup> of each year. No Building Permits for the installation of said snow fencing shall be required.
5. **Utilities.** An applicant seeking to construct a fence shall call Diggers Hotline or similar service to obtain information on the location of underground utilities located on-site.
6. **Finished Side Facing Adjacent Property.** Fencing shall be constructed with the finished or decorative side facing the adjacent or abutting property or street.

B. **Height.** Fence height shall be the vertical distance measured from the mean elevation of the natural lot grade along the fence to the highest point on the fence, excluding fence posts and supports. Fence posts and supports may protrude an additional six (6) inches above the highest point on the fence.

C. **Location.** All fences allowed in this Section shall be located:

1. Wholly within property lines; no part of the fence, post hole, or fence material may encroach or cross a property line
2. A minimum of one (1) foot from any property line abutting a right-of-way,
3. A minimum of one (1) foot from any City easements unless otherwise approved by Common Council
4. Outside of a vision clearance area as detailed in **Section #-#-##**,
5. In a manner which does not block access to underground utility access structures or fire hydrants, and

D. **Material Standards.**

1. **Materials Permitted.** Permitted fence materials shall be only those materials which are designed and intended for use in fence installations and shall be limited to:
  - a. Masonry
  - b. Vegetation (including but not limited to "green wall" systems),
  - c. Wood, chemically treated or naturally resistant to decay,
  - d. Wood Composites,
  - e. Aluminum,
  - f. Vinyl/PVC,

- g. Wrought Iron,
  - h. Trellises composed of materials allowed in this subsection, and
  - i. As approved by the Zoning Administrator or their designee.
2. **Chain Link Fences.** Chain link fences shall be allowed in the interior side or rear yard on a lot with any single-family or duplex use.
  3. **Masonry Fences.** Masonry fences shall be prohibited in the Floodplain Districts. The Zoning Administrator may forward applications for masonry fences to the City Engineer for further review on sites outside the Floodplain Districts on which drainage and flooding concerns are present. Adverse impact of drainage and flooding shall constitute the ground for denial of the application.
- E. **Fences on Lots with Single-Family and Duplex Uses.** Fences on lots with single-family and duplex uses shall meet the requirements established below. Barbed wire, razor wire, agricultural fencing, or unconventional materials such as plywood or tarps or others as determined by the Zoning Administrator shall be prohibited on lots with single-family and duplex uses. All fences shall be erected so that the posts and all other supporting members face inward toward the owner's property.
1. **Fences in Front and/or Street Side Yards.**
    - a. **Height.** Fences in front and/or street side yards shall not exceed four (4) feet in height except fences in street side yards which may have a maximum height of six (6) feet if located at least five (5) feet from the property line.
    - b. **Materials.** Fences in front yards and/or street side yards shall be of non-sight barrier construction and have a maximum opacity of fifty (50) percent except for fences in street side yards, which may be one hundred (100) percent opaque if located a minimum of seven (7) feet from the street side lot line.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



**2. Fences in Interior Side and Rear Yards.**

- a. **Height.** The maximum height of a fence in interior side yards and rear yards shall be six (6) feet. A height of up to eight (8) feet shall be allowed for fences in rear yards abutting an arterial road.
- b. **Materials.** Fence materials utilized in interior side yards and rear yards shall complement fence materials utilized in other yards. Fences in interior side and rear yards may be one hundred (100) percent opaque.

**F. Fences on Lots with Townhome, Multifamily, Mixed-Use, and Nonresidential Uses.**

1. **Height.** The maximum height of fences on a lot with townhome, multifamily, mixed-use, and nonresidential uses shall not exceed six (6) feet.
  - a. **Rear Lots Abutting An Arterial Road.** A height of up to eight (8) feet shall be allowed for fences in rear yards abutting an arterial road.
  - b. **Plan Commission Exception.** The Plan Commission may approve a height above six (6) feet for a fence located in any lot where the proposed increase provides a functional or aesthetic benefit for the proposed use.
2. **Location.** Fences on lots with townhome, multifamily, mixed-use, and nonresidential uses shall be located in rear and interior side yards only, with the exception of fences on lots in the LI - Limited Industrial District which may be located in street side, interior side, and rear yards only. Fences located in the street side yard in the LI - Limited Industrial District shall be buffered from the sidewalk by a landscaped area as specified in **Section #-#-##**.
3. **Barbed Wire.** In the LI - Limited Industrial District, barbed wire may be utilized in interior side and rear yard fences and shall be limited to a maximum height of one (1) foot, and a maximum of three (3) strands of wire. The barbed wire shall not be included in the determination of fence height.

### 15-5-09. Retaining Walls

- A. **Applicability.** The standards of this Section shall apply to retaining walls constructed in any zoning district.
- B. **Location.**
1. **General Location Standards.** All retaining walls shall be located:
    - a. Wholly within property lines; no part of the retaining wall or material may encroach or cross a lot line
    - b. A minimum of one (1) foot from any property line abutting a right-of-way,
    - c. A minimum of one (1) foot from any City easements unless otherwise approved by Common Council
    - d. In a manner which does not block access to underground utility access structures or fire hydrants, and
  2. The setback from any lot line for retaining walls shall be one (1) foot for each foot of retaining wall height.
  3. A minimum horizontal distance of four (4) feet is required between walls installed in a tiered installation.
    - a. The area between the tiers shall be graded with no more slope than needed to facilitate shedding of surface waters and must be landscaped with natural material and be properly maintained.
- C. **Design.**
1. Retaining walls shall not exceed four (4) feet in height above the natural lot grade at the wall's location.
  2. Retaining walls shall not exceed the height of the grade that is supported.
  3. The exterior of all retaining walls shall be natural materials, decorative wall blocks, textured concrete, or other similar materials as approved by the Zoning Administrator. The use of standard concrete block or untreated landscape ties are prohibited.

### 15-5-10. General Townhouse, Multifamily, Mixed-Use, and Nonresidential Design Standards

- A. **Applicability.** The standards of this section shall apply to all townhome, multifamily, mixed-use, and nonresidential development.
- B. **Exterior Building Cladding Materials.** Allowable exterior building cladding materials shall be as detailed in **Table #-###** below. Glazing shall not be included in the façade material calculations. When part of a common development, buildings shall utilize materials that are consistent with or complement surrounding development.

**Table 15-5-10(B): Exterior Building Cladding Materials**

District	Building Façade Elevation	Masonry (1)	Lap Siding, Stucco (2)	EIFS, Concrete	Architectural Metal Siding (3)	Vinyl Siding, Unfinished Concrete Block
<i>R-M - Multi-Unit Residential, Commercial and Mixed-Use, I - Institutional, and B-P - Business Park Districts</i>	<i>Front, Street Side</i>	Min. 50%	Max. 50%	Max. 15%	Max. 15%	Not permitted
	<i>Interior Side</i>	Min. 25%	Max. 75%	Max. 25%	Max. 25%	Not permitted
	<i>Rear</i>	Any % allowed	Any % allowed	Max. 25%	Max. 25%	Max. 25%
<i>LI - Limited Industrial District</i>	<i>Front, Street Side</i>	Min. 30%	Max 60%	Max. 30%	Max. 30%	Not permitted
	<i>Interior Side</i>	Any % allowed	Max. 80%	Max 40%	Max 40%	Not permitted
	<i>Rear</i>	Any % allowed	Any % allowed	Max. 40%	Max. 40%	Max. 40%
<b>Notes</b>						
(1) Masonry shall include brick, stacked stone, stone, stone masonry units, and architectural concrete masonry units.						
(2) Lap siding shall include cementitious fiber board.						
(3) Architectural metal siding shall not be corrugated.						

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C. **Façade Articulation.** Articulation involves the horizontal and vertical variation of the façade so that walls are subdivided into bays or sections that are vertically proportioned. The following provisions for façade articulation shall apply to any building elevations facing a public right of way or property in a residential district.

1. The frontage of the building shall be divided into architecturally distinct sections or bays with each section taller than it is wide.
2. Sections or bays shall be visually established by architectural features such as columns, ribs, pilasters, piers, recesses, projections, windows, awnings, arcades, or an equivalent element that visually subdivides the wall with a roof or cap features that provides a rational terminus and integrates with the overall design of the façade.
3. The required dividing elements shall have a minimum width of one (1) foot and minimum projection to width ratio of 1:4.

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D. **Roofline Modulation.** The width of any continuous flat roofline should not extend more than one-hundred (100) feet without modulation. Modulation shall consist of either one or a combination of the following treatments:

1. For flat roofs or facades with a horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or ten (10) percent of the wall height.
2. For gable, hipped, or gambrel roofs a minimum slope of three (3) feet vertical to twelve (12) feet horizontal.

E. **Glazing.**

1. **Transparency Zone.** Glazing that is transparent under all lighting conditions shall extend from a base of contrasting material (not exceeding four (4) feet in height above the adjacent grade) to at least the height of the door head. **Table ##-###** details the minimum required percentage of square footage in the transparency zone that must have a glazing treatment.

Table 15-5-10(E): Transparency Zone Glazing Requirements		
District	Elevation Facing Yard	
	Front	Street Side
B-SM	50%	40%
B-MU	40%	30%
B-N	40%	30%
B-G	30%	20%
B-R	30%	20%
LI	30%	20%
I	30%	20%

2. **Upper Story Glazing.** A minimum of twenty (20) percent of the square footage of upper stories of buildings in the B-SM - Saint Martin's Road Historic Village Business and B-MU - South 27<sup>th</sup> Street Mixed-Use Districts shall include glazing.
3. **Glazing to be Dispersed.** Required glazing shall not be aggregated into a single, undivided area of glazing treatment. Individual glazing areas shall not span more than fifteen (15) linear feet.
4. **Entrance Orientation.** Main entrances to buildings shall be oriented toward the primary street adjoining the subject property. Secondary entrances are encouraged along secondary streets or along building frontages not adjoining a street.

**15-5-11. Outdoor Lighting**

- A. **Fixture Classification.** All outdoor lighting fixtures, with the exception of wall-mounted accent lighting, shall either have a fixture cutoff classification of "Full Cutoff" or be fully shielded, unless otherwise expressly permitted in this UDO.
- B. **LED Fixtures.** All outdoor lighting utilizing a light-emitting diode (LED) fixture shall meet the following standards:
  - 1. **Color Rendering.** Outdoor LED fixtures shall be rated a minimum Color Rendering Index (CRI) value of seventy (70) or higher.
  - 2. **Color Temperature.** Outdoor LED fixtures shall have a correlated color temperature between four thousand (4,000) and five thousand (5,000) degrees Kelvin.
- C. **Pole Mounted Outdoor Lighting.**
  - 1. **Pole Placement.** Pole-mounted outdoor lighting shall be located outside of utility easements, designed in coordination with required landscape zones.
  - 2. **Maximum Lighting Height.** Pole-mounted fixtures shall be mounted at heights as specified in **Table 15-#-##**.

Table 15-5-11(C)(2): Maximum Lighting Height	
District	Maximum Permitted Luminaire Height
A, A-P, R-C, R-SE, R-SR	10
R-M, R-V, B-SM	15
B-N, B-MU	20
All Other Districts	25
<b>Notes</b>	
A post height of 60 feet shall be allowed for outdoor place of assembly uses including ball diamond, playing fields, golf driving ranges, tennis courts and similar outdoor recreational facilities.	

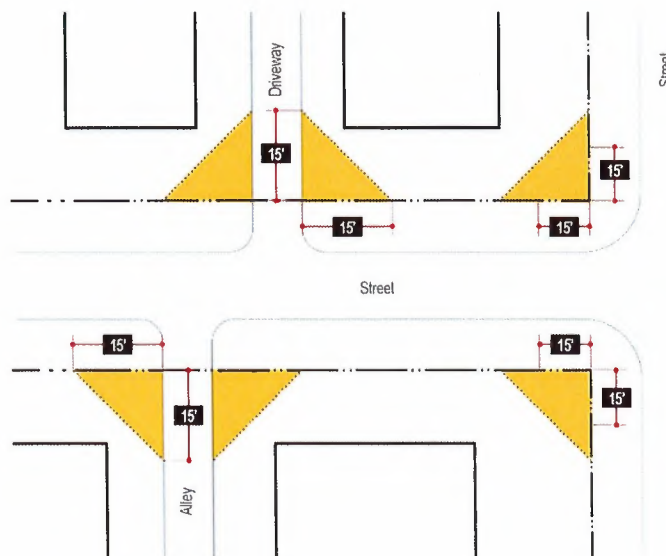
- D. **Wall Mounted Accent Lighting.** Wall mounted accent lighting shall be integrated with the architectural character of the building and shall use low-luminosity lamps, with two thousand (2,000) source lumens or less. The illumination on any vertical surface shall not exceed one-half (0.5) maintained foot candle and shall not spill over roof lines or building edges.
- E. **Outline Lighting, Flickering, and Flashing Prohibited.** Outline lighting shall be prohibited from signs, buildings, and structures. No flickering or flashing lights shall be permitted.
- F. **State Requirements For Street Lighting.** Street lighting shall conform to the standards set forth by the State of Wisconsin for State Trunk Highways, Milwaukee County for County Trunk Highways, and the City for City streets and highways.
- G. **Maximum Light Level at Property Line.**
  - 1. On lots adjacent to lots in a Nonresidential District, all outdoor lighting fixtures shall be designed and located so that the maximum light level shall be one-half (0.5) maintained foot candles at any property line.
  - 2. On lots adjacent to lots in a Residential District, all outdoor lighting fixtures shall be designed and located so that the maximum light level shall be zero (0) maintained foot candles at any property line.
  - 3. The Zoning Administrator may approve light level in excess of the limits of this section at a front property line for lighting fixtures that meet the City's specifications for streetlighting as specified in **Section 15-##-##(F)**.
- H. **Light Level Measurement.**

1. **Location.** Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the sensor in the horizontal position and not mounted more than six (6) inches above ground level, and with the light-registering portion of the meter held parallel to the ground and pointing upward.
2. **Light Meter Specifications.** Light levels shall be measured in foot candles with a direct-reading portable light meter. The meter shall have:
  - a. Cosine and color correction,
  - b. An accuracy tolerance of no greater than plus or minus five (5) percent, and
  - c. Been calibrated within the last two (2) years.

**15-5-12. Vision Clearance Areas**

- A. No visual obstructions, such as structures, parking, or vegetation, taller than three (3) feet above grade shall be permitted in any district in the triangular area of the lot measured as a set distance from the center of the intersection of a driveway and a street or from the center of the intersection of two (2) or more streets. This area shall be referred to as a clear sight triangle and shall be determined as follows:
  1. In the case of an arterial or collector street intersecting with another arterial or collector street, the clear sight triangle shall be sixty (60) feet from the center of the intersection of the two (2) streets.
  2. In the case of the intersection of any two (2) other street types or between a street and a driveway, the clear sight triangle shall be thirty (30) feet from the center of the intersection of the two (2) streets or between the street and the driveway.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



## Article 6. Sign Standards

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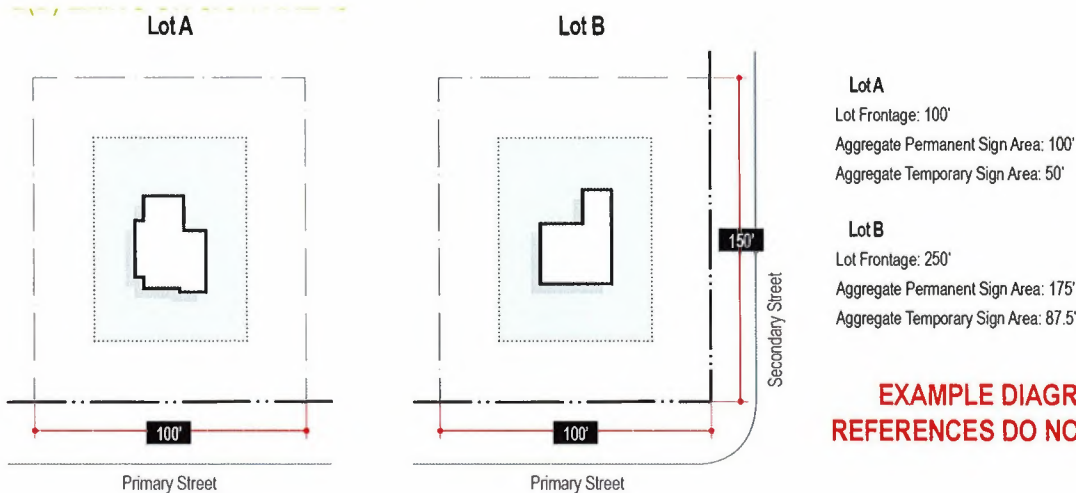
### 15-6-01. Intent, Purpose, and Applicability

- A. **Purpose and Intent.** The purpose of this Article is to preserve and protect the public health, safety, and welfare by regulating signs of all types. It is intended to:
1. Enhance the physical appearance of the City,
  2. Make Franklin a more enjoyable and pleasing community and create an attractive economic and business climate,
  3. Reduce sign distractions which may increase traffic accidents,
  4. Eliminate hazards caused by unsafe signs,
  5. Relieve pedestrian and traffic congestion, and
  6. Avoid the canceling out effect of adjacent signs.
- B. **Applicability.** Except as otherwise regulated herein, the regulations of this Article shall govern all outdoor signs, advertising structures or devices with respect to location, safety, size, construction, erection, attachment, support, anchorage and maintenance.

### 15-6-02. Limit on Sign Area

- A. **Permanent Sign Area Limit.** Each lot shall be allowed aggregate permanent sign area equal to two (2) square feet of sign area per linear foot of lot frontage.
- B. **Temporary Sign Area Limit.** Each lot shall be allowed aggregate temporary sign area equal to one (1) square foot of sign area per linear foot of lot frontage.
- C. **Premises Having Frontage on More Than One Dedicated Street.** Premises having frontage on more than one (1) dedicated street will be allowed an additional one (1) square foot of aggregate sign area for each lineal foot of the secondary lot frontage; however additional sign area shall only be displayed on the secondary frontage.

- D. **Irregularly Shaped Lots.** Irregularly shaped lots with minimal lot frontage, relative to more typically shaped lots in the district, may petition for additional aggregate sign area through the Comprehensive Sign Plan process as detailed in **Section ###-#-##**.



### 15-6-03. Sign Measurement

- A. **Sign Height.** Sign height shall be measured by the total distance between the highest point on the sign to the average elevation of the ground upon which the sign supports are placed, except when:
1. The sign supports rest upon a berm or other area elevated above the surrounding ground, or
  2. The sign supports rest upon a ditch or other area lower than the surrounding ground.
- B. In the cases detailed in **Section ###-#-##** above, the elevation of the centerline of the adjacent roadway shall be considered as the ground level.
- C. **Sign Area.**
1. Unless otherwise defined, sign area is determined by the total area enclosed by a continuous perimeter along the edges of a sign, including any frame or border.
  2. The area of a sign composed of individually-affixed letters is determined by the total area of the smallest geometric shape enclosing the copy.
  3. A maximum of two (2) geometric shapes may be utilized in sign area calculation.

4. The calculation for a double-faced sign shall be the area of one (1) face only.



**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

**15-6-04. Permitted and Allowed Sign Types by District**

- A. The following key is to be used in the interpretation of **Table ##-##-## Permitted and Allowed Sign Types by Residential District** and **Table ##-##-## Permitted and Allowed Sign Types by Nonresidential and Mixed-Use Districts**.
1. **Sign Types Requiring a Permit.** Sign types marked as "●" in the tables shall be permitted subject to all applicable regulations of this Ordinance and only after the issuance of a Sign Permit as detailed in **Section ##-##-##**.
  2. **Sign Types not Requiring a Permit.** Sign types marked as "○" in the tables shall be allowed subject to all applicable regulations of this UDO without the issuance of a Sign Permit.
  3. **Prohibited Sign Types.** A blank space in the table indicates that a sign type is prohibited in the respective district.
  4. **Interpretation of Similar Sign Type.** If a proposed sign is not listed in the table, the **Zoning Administrator** shall determine if the sign is substantially similar to a sign listed in the table. If it is, the standards applied to the proposed sign shall be the standards applicable to the similar sign. If not, the sign shall be regarded as prohibited.
- B. **Permitted and Allowed Sign Types by Residential District.**

<b>Table 15-6-04(B): Permitted and Allowed Sign Types by Residential District</b>					
<b>Sign Type</b>	<b>District</b>				
	<b>R-C</b>	<b>R-SE</b>	<b>R-SR</b>	<b>R-M</b>	<b>R-V</b>
<i>Permanent Signs</i>					
Wall Sign					
Single-Tenant Monument Sign	●(1)	●(1)	●(1)	●(1)(2)	
Multi-Tenant Monument Sign					
Awning/Canopy Sign					
Projecting Sign					
Window Sign, Permanent					
On-Site Traffic Directional Sign				○(2)	
<i>Temporary Signs</i>					
Wall Mounted Banner Sign					
Ground Mounted Banner Sign					
Window Sign, Temporary					
A-Frame/Sandwich Board Sign					
Post Sign	○	○	○	○	○
Yard Sign	○	○	○	○	○
<i>Notes:</i>					
(1) Sign shall be permitted at entryways or gateways to subdivisions or neighborhoods only.					
(2) Sign shall be permitted for multifamily developments only.					

C. Permitted and Allowed Sign Types by Nonresidential and Mixed-Use District.

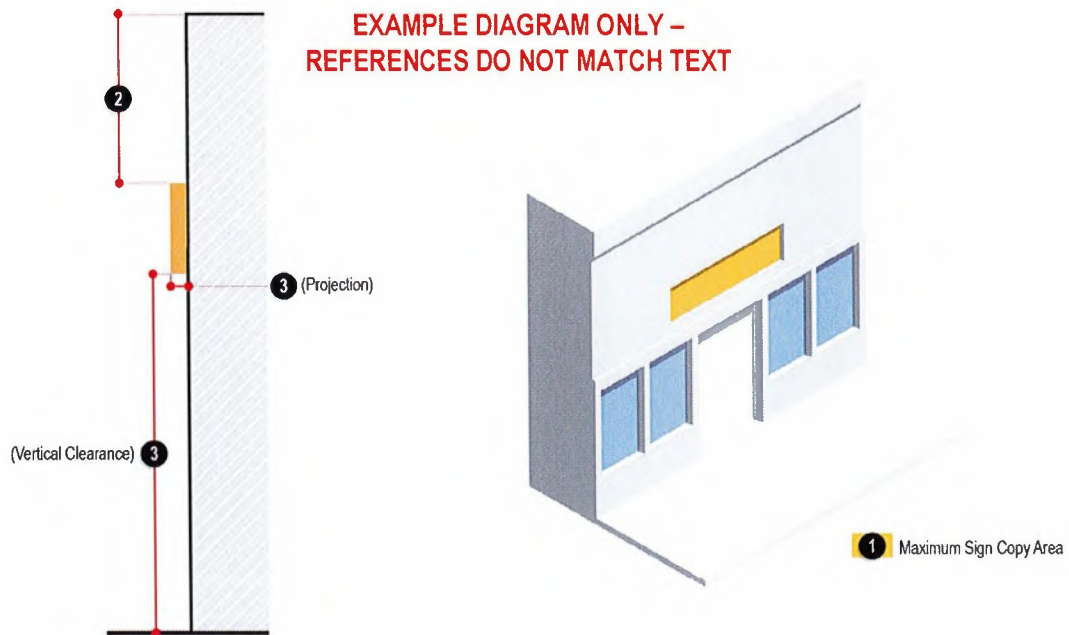
Table 15-6-04(C): Permitted and Allowed Sign Types by Nontresidential and Mixed-Use District													
Sign Type	District												
	B-N	B-G	B-R	B-MU	B-SM	B-P	LI	A	A-P	I	P	L	FW
<i>Permanent Signs</i>													
Wall Sign	•	•	•	•	•	•	•	•	•	•	•		•
Single-Tenant Monument Sign	•	•	•	•		•	•	•	•	•	•	•	•
Multi-Tenant Monument Sign	•	•	•	•		•	•			•	•	•	•
Awning/Canopy Sign	•	•	•	•	•	•	•	•	•	•	•		•
Projecting Sign	•	•	•	•	•								
Window Sign, Permanent	•	•	•	•	•								•
On-Site Traffic Directional Sign	○	○	○	○	○	○	○	○	○	○	○	○	○
<i>Temporary Signs</i>													
Wall Mounted Banner Sign	•	•	•	•	•	•	•	•	•	•	•	•	•
Ground Mounted Banner Sign	•	•	•	•	•	•	•	•	•	•	•	•	•
Window Sign, Temporary	•	•	•	•	•	•	•			•	•	•	•
A-Frame/Sandwich Board Sign	○	○	○	○	○	○	○			○	○		•
Post Sign								○	○	○	○		
Yard Sign								○	○	○	○		



## 15-6-05. Standards For Permanent Signs

### A. Wall Signs.

1. **Sign Area.** The maximum sign area of wall signs shall be ten (10) percent of the total area of the face of the wall to which the sign is to be affixed.
2. **Sign Height.** No wall sign shall protrude above the sill of a second-story window or windows of the building or structure to which such sign is to be attached.
3. **Projection.**
  - a. No part of any wall sign, except lighting reflectors, shall extend more than twelve (12) inches from the face of the wall to which such sign is attached.
  - b. No wall sign shall be erected or maintained to extend beyond the end of the wall facing a street to which such sign is attached.



### 4. Number of Signs.

#### a. Primary Wall Signs.

- I. Single tenant buildings shall be permitted a total of three (3) primary wall signs; however only one (1) wall sign shall be displayed on any single building façade.
- II. Multi-tenant buildings shall be permitted one (1) primary wall sign per unit.

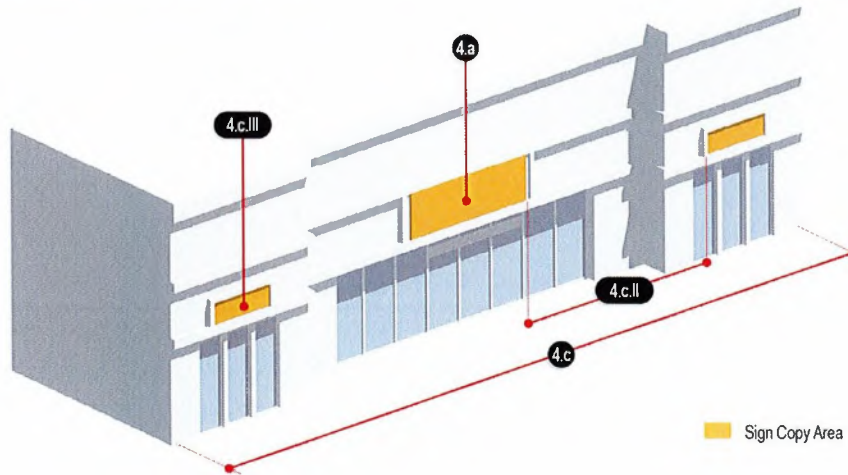
#### b. Secondary Wall Signs.

A maximum of two (2) secondary wall signs may be authorized for buildings with lineal frontage in excess of seventy-five (75) feet by the Zoning Administrator provided such additional signage is:

- I. In keeping with the overall design and architecture of the building,
- II. A minimum of twenty (20) feet from the primary wall sign and other secondary wall signs,

- III. A maximum of fifty (50) percent of the size of the primary wall sign,
- IV. Less visually prominent on the site than the building's primary wall sign, and
- V. The total area of all primary and secondary wall signs does not exceed the maximum wall sign area as established in Section #- #-#.

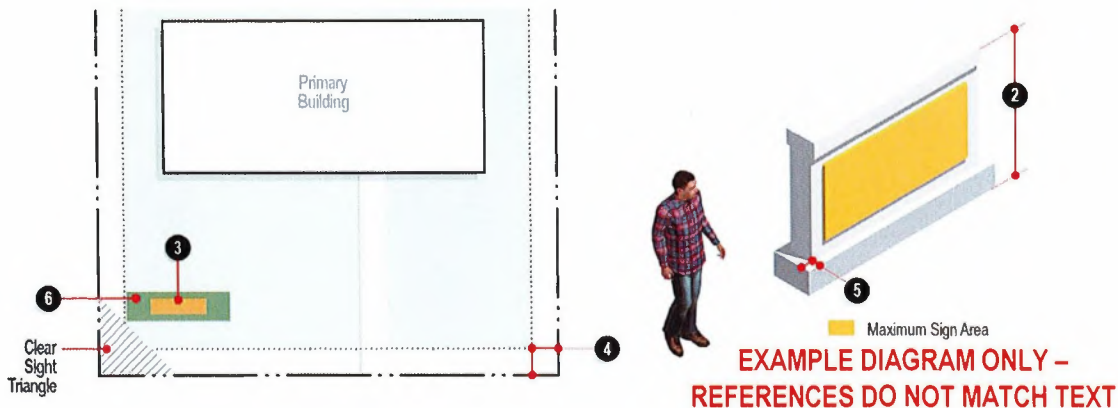
**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



- 5. **Sign Copy.**
  - a. If the sign copy is individually affixed letters, the Zoning Administrator may approve an increase in sign area up to an additional five (5) percent of the total area of the face of the wall to which the sign is to be affixed.
  - b. Box/cabinet wall signs shall be prohibited.
- 6. **Other Provisions.**
  - a. No wall sign shall cover any architectural features (architectural features shall include but not be limited to, pediment, cornice, belt course, pier, windows, pilaster, roof, decorative stone or inlay, kick plate/bulkhead, raised or colored brick pattern, and corbel) of the building to which it is affixed.
  - b. No wall sign shall be affixed to HVAC screening, elevator overrun, or other structures protruding from the roof of the principal building, excluding architectural features that are an integral part of the principal building.

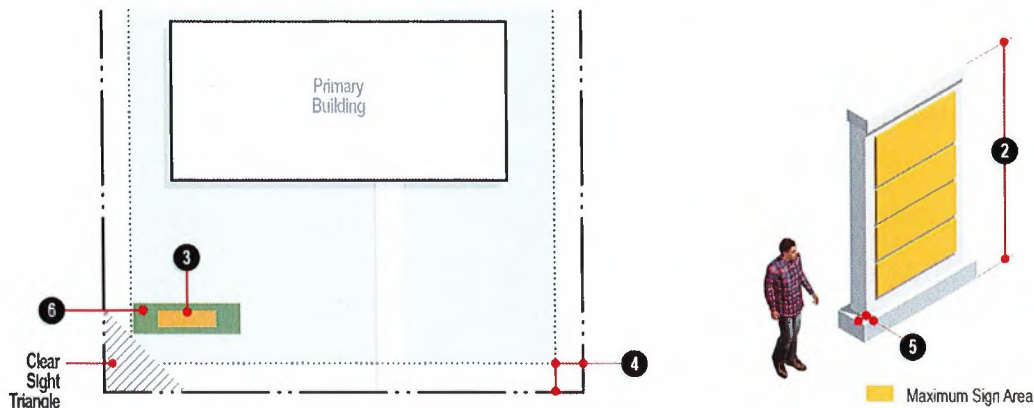
**B. Single-Tenant Monument Signs.**

1. **Sign Area.** The maximum sign area of a single-tenant monument sign shall be one-hundred-twenty (120) square feet.
2. **Sign Height.** The maximum sign height of a single-tenant monument sign shall be fourteen (14) feet.
3. **Number of Signs.** A maximum of one (1) single-tenant monument sign shall be permitted per lot frontage except with approval from the Plan Commission.
4. **Location.**
  - a. A single-tenant monument signs shall not be closer than five-hundred (500) feet to another single-tenant or multi-tenant monument sign, except where necessary to ensure that each business may have one (1) monument sign.
  - b. No part of any single-tenant monument sign may be closer than fourteen (14) feet to a lot line.
5. **Sign Base.**
  - a. The base of a single-tenant monument sign, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face.
  - b. The base of single-tenant monument signs shall be constructed from masonry, stone, or similar high-quality materials in keeping with the materials and design of the principal building of the lot.
6. **Landscape Requirement.**
  - a. All single-tenant monument signs shall be required to plant and maintain a landscape area at the base of the sign.
  - b. The minimum area of the landscape area shall be equal to half of the square footage of the sign area of the associated sign.
  - c. Landscape areas shall be planted with one (1) shrub or native grass per every three (3) square feet of required landscape area.
7. **Other Provisions.**
  - a. The address of the building(s) to which the single-tenant monument sign is associated shall be displayed on the single-tenant monument sign but shall not count towards maximum sign area.
  - b. The color scheme of a single-tenant monument sign must be consistent with the color scheme of the principal building unless an alternate color scheme is required by an approved comprehensive sign plan.
  - c. All signs shall be designed to comply with the applicable provisions of the Wisconsin Commercial Building Code.



C. Multi-Tenant Monument Signs.

1. **Sign Area.** The maximum sign area of a multi-tenant monument sign shall be one-hundred-twenty (120) square feet.
2. **Sign Height.** The maximum sign height of a multi-tenant monument sign shall be sixteen (16) feet.
3. **Number of Signs.** Number of Signs. A maximum of one (1) single-tenant monument sign shall be permitted per lot frontage except with approval from the Plan Commission.
4. **Location.**
  - a. A multi-tenant monument sign shall not be closer than five hundred (500) feet to another single-tenant or multi-tenant monument sign, where necessary to ensure that each business may have one (1) monument sign.
  - b. No part of any multi-tenant monument sign may be closer than sixteen (16) feet to a lot line.
5. **Sign Base.**
  - a. The base of a multi-tenant monument sign, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face.
  - b. The base of multi-tenant monument signs shall be constructed from masonry, stone, or similar high-quality materials in keeping with the materials and design of the principal building of the lot.
6. **Landscape Requirement.**
  - a. All multi-tenant monument signs shall be required to plant and maintain a landscape area at the base of the sign.
  - b. The minimum area of the landscape area shall be equal to half of the square footage of the sign area of the associated sign.
  - c. Landscape areas shall be planted with one (1) shrub or native grass per every three (3) square feet of required landscape area.
7. **Other Provisions.**
  - a. The address of the building(s) to which the multi-tenant monument sign is associated shall be displayed on the multi-tenant monument sign but shall not count towards maximum sign area.
  - b. The color scheme of a multi-tenant monument sign must be consistent with the color scheme of the principal building unless an alternate color scheme is required by an approved comprehensive sign plan.



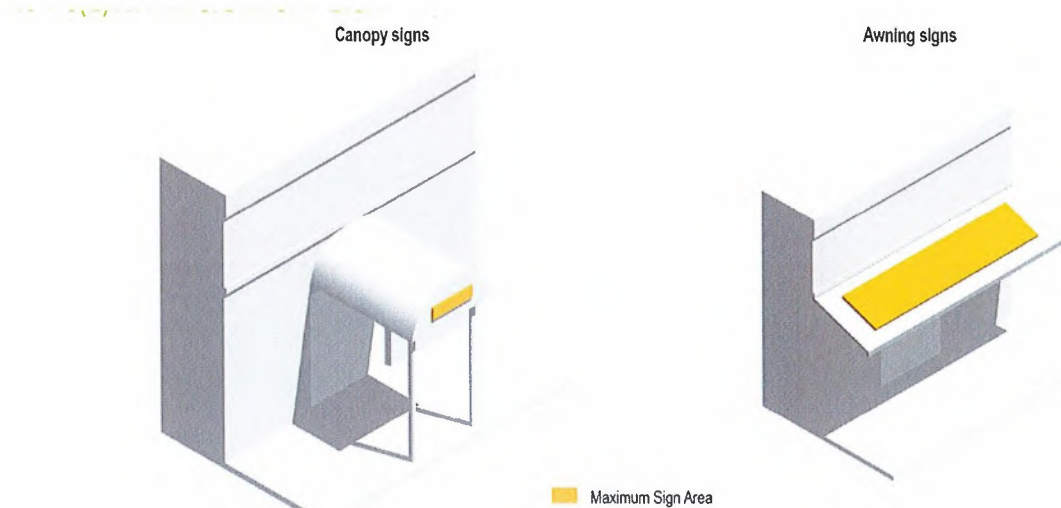
**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

D. Awning/Canopy Signs.

1. Sign Area.

- a. The maximum sign area of awning/canopy signs shall be forty (40) percent of the face of the awning/canopy upon which the sign shall be printed or affixed.
- b. The area of the awning/canopy sign shall count towards the maximum amount of sign area permitted for wall signs as detailed in Section ##-#-##.

2. Other Provisions. Awning/canopy signs shall only be permitted on awnings/canopies extending above ground floor entrances or windows.



**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

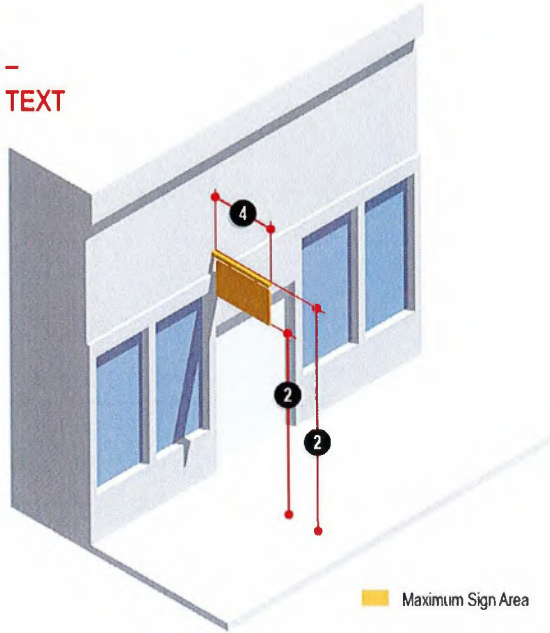
E. Projecting Signs.

- 1. **Sign Area.** The maximum permitted sign area of projecting signs shall be four (4) square feet.
- 2. **Sign Height.**
  - a. Projecting signs shall not extend above the roofline of the building to which it is attached, or a maximum of twelve (12) feet, whichever is less.
  - b. Projecting signs shall maintain a minimum vertical clearance of ten (10) feet.
- 3. **Number of Signs.**
  - a. A maximum of one (1) projecting sign shall be permitted per ground floor tenant space.
  - b. A projecting sign shall not be displayed on the same building frontage as an awning/canopy sign.
- 4. **Projection.**
  - a. Projecting signs shall horizontally project a maximum of four (4) feet from the building to which it is attached.
  - b. Projecting signs erected over marquees shall be set back not less than two (2) feet from the outer edge of such marquee.
  - c. No projecting sign shall at the lowest point be less than ten (10) feet above the established grade immediately below

5. Other Provisions.

- a. Projecting signs shall not be internally illuminated.
- b. Projecting signs may encroach upon, extend, or project over a public right-of-way or easement. The property owner may be required to provide a release or hold harmless to the City prior to issuing permits for any such signs.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

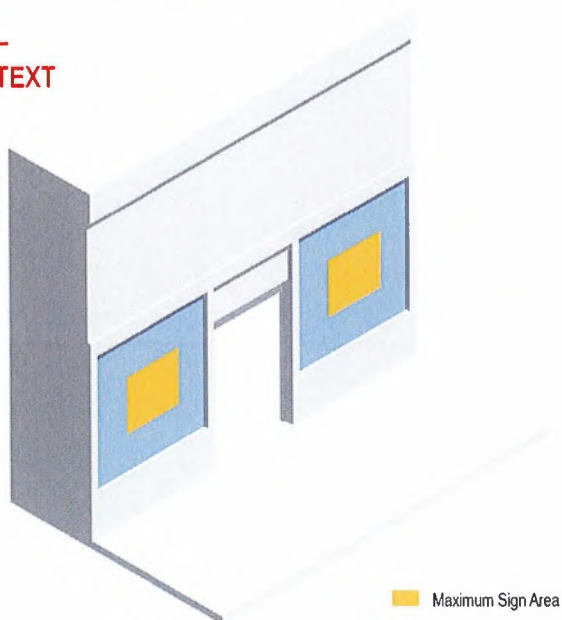


F. Window Signs, Permanent.

1. Sign Area.

- a. The maximum permitted aggregate sign area of a permanent window sign shall be twenty-five (25) percent of the square footage of the individual window on which the sign shall be located.
- b. The aggregate area of the permanent window sign(s) shall count towards the maximum amount of sign area permitted for wall signs as detailed in **Section ##-##-##**.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



G. On-Site Traffic Directional Signs.

1. Sign Area.

- a. The maximum sign area of an on-site traffic directional sign shall be four (4) square feet.
- b. Permitted on-site traffic directional sign area shall not count towards the maximum allowed aggregate sign area as detailed in Section ##-##-##.

2. Sign Height. The maximum height of an on-site traffic directional sign shall be four (4) feet.

3. Number of Signs. The permitted number of on-site traffic directional signs shall be determined by the Zoning Administrator or their designee as necessary to assist in the safe movement of vehicular, bicycle, and pedestrian traffic on a property and between properties with vehicular cross access.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**



**1** Maximum Sign Area



## 15-6-06. Standards For Temporary Signs

### A. General Standards Temporary Signs.

#### 1. Temporary Signs Requiring a Permit.

- a. **Single-Tenant Building.** A maximum of two (2) permitted temporary signs, as permitted per district in Table ##-##-##, may be displayed concurrently on a lot with a single-tenant building.
- b. **Multi-Tenant Building.**
  - I. A maximum of one (1) permitted temporary sign, as permitted per district in Table ##-##-##, may be displayed per unit on a lot with a multi-tenant building concurrently.
  - II. In no instance shall more than two (2) freestanding temporary signs be displayed concurrently.

#### 2. Display Period.

- a. The permitted display period of a permitted temporary shall be a maximum of thirty (30) days.
- b. A total of three (3) nonconcurrent display periods shall be permitted per single-tenant building or unit of a multi-tenant building per calendar year.
- c. Display periods shall be separated by a minimum of thirty (30) days.

#### 3. Temporary Freestanding Signs.

Temporary freestanding signs shall include ground mounted banner, feather, post, and yard signs.

- a. Temporary freestanding signs shall be securely anchored into the ground or secured in a portable base designed for such function.
- b. Temporary freestanding signs shall be maintained in good condition and shall not sag, lie on the ground, be torn, or otherwise kept in a disorderly state.

**B. Wall Mounted Banner Sign.**

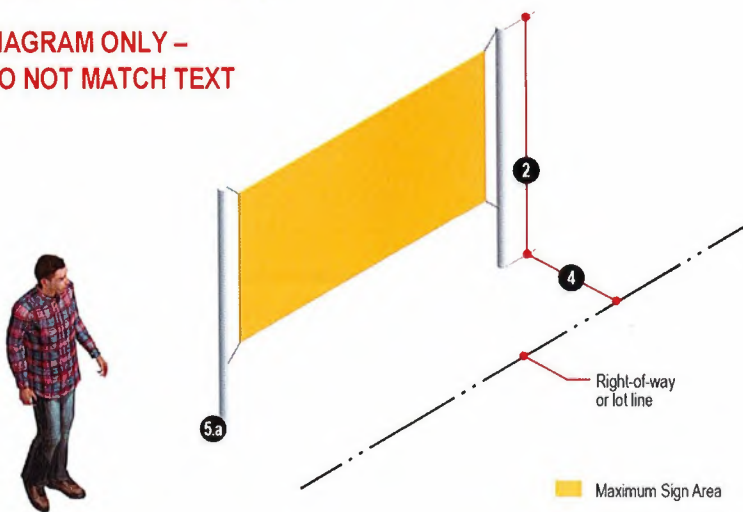
1. **Sign Area.** The maximum area of a wall mounted banner sign shall be five (5) percent of the total area of the face of the wall to which the sign is to be affixed.
2. **Sign Height.** No wall mounted banner sign shall protrude above the highest roofline or the top of the parapet wall or mansard roof.
3. **Location.** Wall mounted banner signs shall be affixed to a building only.
4. **Projection.** Wall mounted banner signs shall be affixed flat against the building to which they are mounted.



**C. Ground Mounted Banner Sign.**

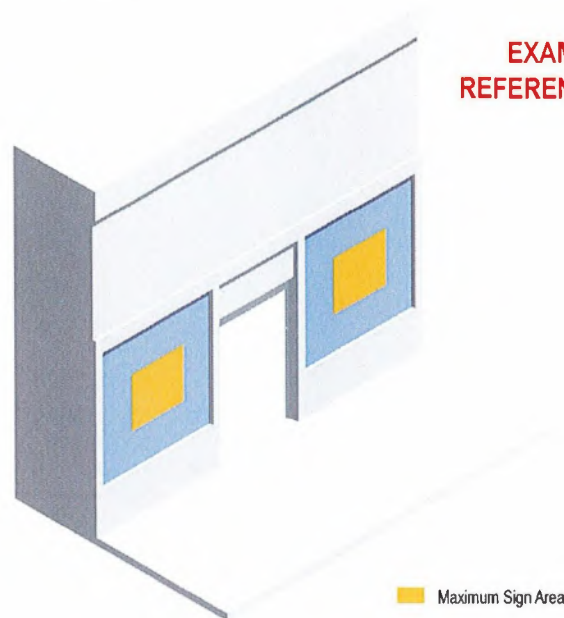
1. **Sign Area.** The maximum sign area of a ground mounted banner sign shall be twenty (20) square feet.
2. **Sign Height.** The maximum sign height of a ground mounted banner sign shall be five (5) feet.

**EXAMPLE DIAGRAM ONLY - REFERENCES DO NOT MATCH TEXT**



#### D. Window Signs, Temporary.

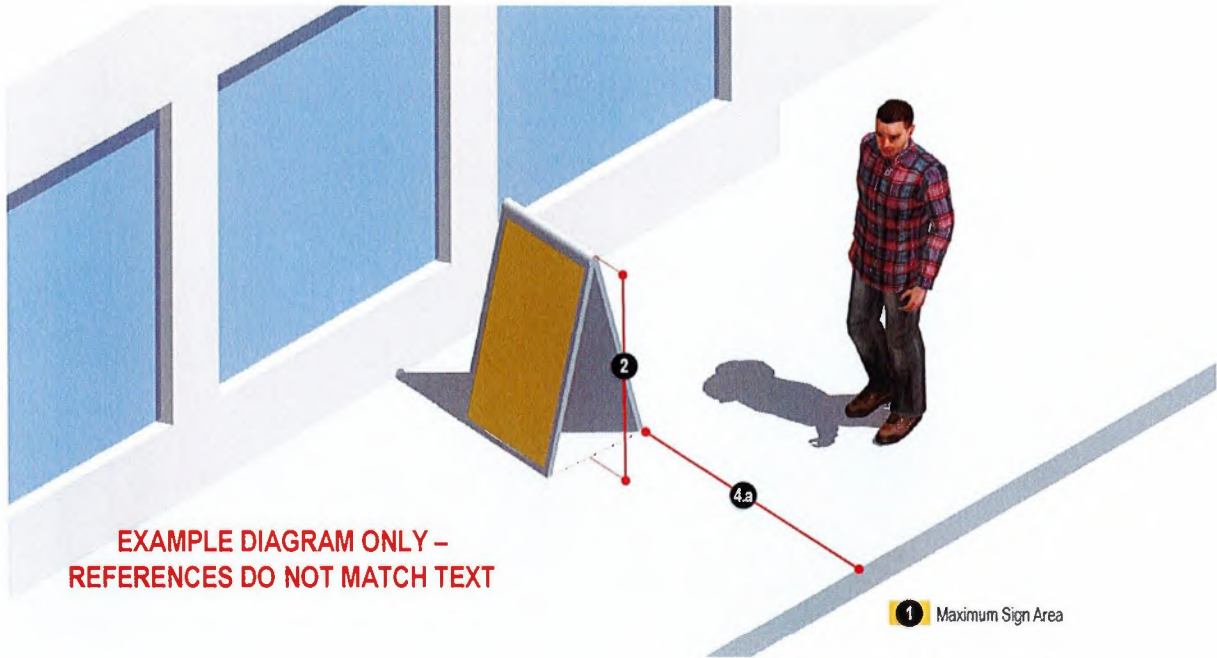
1. **Sign Area.** The aggregate maximum sign area of a temporary window sign shall be twenty-five (25) percent of the individual window on the sign shall be affixed.



#### E. A-Frame/Sandwich Board Signs.

1. **Sign Area.** The maximum sign area of an a-frame/sandwich board sign shall be six (6) square feet.
2. **Sign Height.** The maximum sign height of an a-frame/sandwich board sign shall be four (4) feet.
3. **Number of Signs.** One (1) a-frame/sandwich board sign shall be permitted per single-tenant building or unit of a multi-tenant building.
4. **Sign Separation.** Each a-frame/sandwich board sign shall be separated from another a-frame/sandwich board sign by at least twenty-five (25) feet.
5. **Location.**
  - a. A-frame/sandwich board signs shall be placed in a manner to preserve a continuous sidewalk width of a minimum of five (5) feet.
  - b. No part of any a-frame/sandwich board sign shall block points of ingress or egress.
  - c. A-frame/sandwich board signs shall be placed no more than one (1) foot from the wall of the building or unit of a building to which the sign is associated.
  - d. A-frame/sandwich board signs shall be placed no less than three (3) feet and no more than six (6) feet from the building entrance of the building or unit of a building to which the sign is associated.

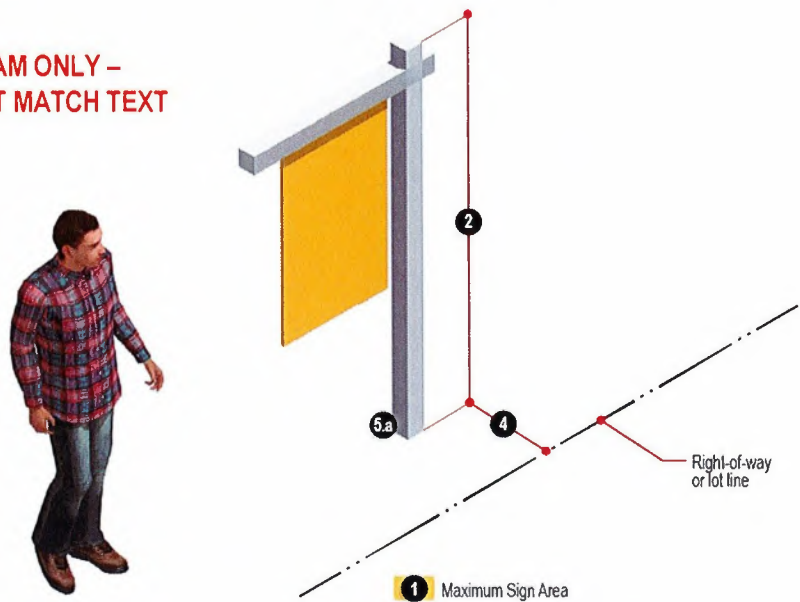
- Other Provisions.** The display of a-frame/sandwich board signs shall only be permitted during the operating hours of the use to which the sign is associated.



F. Post Signs.

1. **Sign Area.** The maximum sign area of a post sign shall be six (6) square feet.
2. **Sign Height.** The maximum sign height of a post sign shall be six (6) feet.
3. **Number of Signs.** A maximum of one (1) post sign shall be allowed per lot frontage.

**EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT**

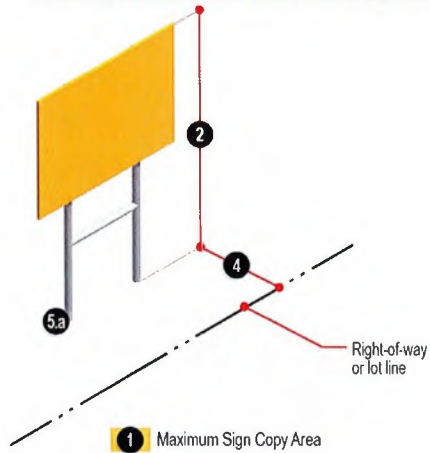


G. Yard Signs.

1. **Sign Area.** The maximum sign area of a yard sign shall be four (4) square feet.
2. **Sign Height.** The maximum sign height of a yard sign shall be three (3) feet.
3. **Number of Signs.** A maximum of two (2) yard signs may be displayed concurrently with the exception of thirty (30) days before and fifteen (15) days after a local, state, or federal election in which case a maximum of six (6) yard signs may be displayed.
4. **Other Provisions.** Yard signs in residential districts displayed for a period of forty-eight (48) hours or less shall be exempt from the requirements of this Section.



EXAMPLE DIAGRAM ONLY –  
REFERENCES DO NOT MATCH TEXT



## 15-6-07. General Sign Standards

- A. **Location of Freestanding Signs.** Free standing signs shall include single-tenant monument signs, multi-tenant monument signs, on-site traffic directional signs, ground mounted banner signs, feather signs, post signs, and yard signs.
1. Be located a minimum of five (5) feet from all property lines, rights-of-way, and utility easements;
  2. Not block points of ingress or egress;
  3. Not be placed in any sidewalk or pedestrian circulation system, and
  4. Not be located in a clear sight triangle as detailed in **Section ##-#-##**.
- B. **Illumination.**
1. **Location and Design of Light Source.** Whenever an external artificial light source is used for a sign, such source shall be located, shielded, and directed so as not to be directly visible from any public right-of-way or residential property. No receptacle or device housing a permitted light source for a sign shall protrude more than twelve (12) inches from the face of the sign or building to which it is attached except if such light source is ground mounted, locked in place, and cannot be redirected.
  2. **Level of Illumination.** In no event shall the illumination of any sign, resulting from any internal or external artificial light source, exceed the outdoor lighting standards established in **Section ##-#-##**. All artificial illumination shall be so designed, located, shielded, and directed as to prevent the casting of glare or direct light upon adjacent property or streets.
- C. **Wind Pressure, Allowable Stresses and Materials.**
1. All signs shall be constructed, erected, and maintained to safely withstand a wind pressure of at least thirty (30) pounds per square foot.
  2. The allowable stresses in chains, wire ropes, and steel guy rods and their fastenings shall not exceed one-quarter (1/4) of their ultimate strength.
  3. All ferrous chains, wire ropes, guy rods and their fastenings and anchor bolts shall be galvanized or be of other approved equivalent protection. All other ferrous parts of signs subject to corrosion shall be protected and maintained free from corrosion by approved corrosion-resistant coating.
- D. **Identification.** All signs hereafter erected shall bear the manufacturer's name, and the name trademark or other approval mark or symbol of the person erecting such sign.
- E. **Combustible Materials.** All signs shall be constructed of noncombustible materials, provided however, that the letters, decorations, and facings may be made of combustible plastics approved by the Zoning Administrator and Director of Inspection Services.
- F. **Electronic Message Boards.** Single-tenant and multi-tenant monument signs may incorporate electronic message boards in accordance with the following:
1. One-third (1/3) of the sign area must be permanent copy.
  2. The area of the sign devoted to an electronic message board shall be part of, not in addition to, the maximum sign area allowed.
  3. The electronic message format shall conform to the following requirements:
    - a. The message will contain a static message or image only and not have movement, or the appearance of movement, during the static display period.

- b. The transition to change from one message or image to another shall be instant and not dissolve, fade, scroll, travel, or have similar transitions.
  - c. The message shall not change more frequently than once every ten (10) seconds.
4. Electronic message boards must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
  5. Electronic message boards shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to light conditions.
  6. Illumination of electronic message signs shall not exceed 0.3 foot-candles over the ambient lighting conditions when measured at a distance equal to the square footage of the sign area.
  7. Applications shall be reviewed by the Zoning Administrator to determine that the sign placement does not interfere with traffic control devices within three hundred (300) feet of the sign or traffic circulation upon roadways. If deemed necessary by the Zoning Administrator a report from a traffic engineer certifying that the proposed sign does not interfere with the design characteristics of the traffic circulation and traffic control devices may be required.

### **15-6-08. Prohibited Signs and Content**

- A. The following signs are specifically prohibited:
  1. Billboards;
  2. Off-premises signs;
  3. Pole/pylon signs;
  4. Flashing signs;
  5. Roof signs;
  6. Marquee signs;
  7. Feather signs;
  8. Signs attached to a utility pole, a tree, a fence, a standpipe, gutter, drain or fire escape;
  9. Signs erected so as to impair access to a roof;
  10. Signs located, erected or maintained upon, over or project into any public right-of-way or easement unless otherwise allowing by this Article;
  11. Pennants, streamers, and portable signs not specifically permitted or allowed by this Article;
  12. Signs, not specifically permitted or allowed by this Article, which move or have moving parts, which movement is caused either by the wind or mechanically;
  13. Signs in conflict with traffic signals, vehicular or pedestrian travel, access to fire hydrants and fire lanes and exits, and other signs which reasonably impede or impair the public health, safety and welfare;
  14. Signs on vehicles, boats, or trailers parked so as to be visible from a public right-of-way;
  15. Attention getting devices;
  16. Signs hung across any street or alley;



17. Signs employing exposed neon lights not completely covered by other acceptable sign materials;
18. Signs painted on or otherwise affixed to fences;

**B. Prohibited Content.**

1. The following content is prohibited without reference to the viewpoint of the individual speaker:
  - a. Text or graphics of an indecent or immoral nature and harmful to minors,
  - b. Text or graphics that advertise unlawful activity,
  - c. Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats, or
  - d. Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
2. The narrow classifications of content that are prohibited by this subsection are either not protected by the United States or Wisconsin Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the Common Council that each paragraph of this Subsection be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or Wisconsin Constitutions.

**15-6-09. Safety, Maintenance, and Abandonment**

- A. Every sign and all parts thereof, including base, copy, framework, supports, anchors, and wiring systems shall:
  1. Be constructed and maintained in compliance with the applicable codes of the City.
  2. Be kept in proper repair.
  3. When not galvanized or constructed of approved corrosion resistive, noncombustible materials, be painted, when necessary, to prevent corrosion, rust, peeling paint, and excessive fading.
- B. Failure of owners to keep signs maintained in good mechanical and visual repair shall be deemed a violation of this Ordinance and shall be subject to a penalty as provided in **Section ##-#-##**.
- C. It shall be the duty and responsibility of the owner of every sign to maintain the immediate premises occupied by the sign in a clean condition, free of rubbish. Any landscaping surrounding the sign shall be kept trimmed and in good repair. If the landscaping installed at the time of sign approval dies, said landscaping shall be replaced immediately or as soon as weather permits.
- D. Every existing sign shall be subject to an inspection whenever the Zoning Administrator deems it necessary. In the event an inspection demonstrates that repairs, and/or maintenance is necessary, the sign owner shall be notified and required to complete said repairs and/or maintenance within thirty (30) days of notification. The Zoning Administrator is authorized to grant one (1) thirty (30) day extension, if, upon written request, it is deemed necessary due to extenuating circumstances.
- E. If the Zoning Administrator shall find that any sign is unsafe or unsecure, or is a threat to the public safety, or was, after the adoption of this UDO constructed, erected, or maintained in violation of the provisions of this UDO, they shall give written notice to the sign owner. Such notice shall specify the manner in which the sign is unsafe or in violation of this UDO.
- F. Sign copy shall be removed and in the case of a wall sign, the building façade shall be repaired, by the sign owner when the use which the sign is associated is no longer conducted on the premises. The sign copy shall be removed within thirty (30)

days of when the use ceases to operate. If the owner fails to remove the sign copy, the Zoning Administrator or their designee shall give the owner thirty (30) days written notice to remove it. Failure to comply with the notice shall be deemed a violation of this UDO.

### 15-6-10. Comprehensive Sign Plan

- A. **Intent.** The intent of the comprehensive sign plan is to provide an alternative procedure under which signs can be designed, constructed, and erected with innovation, imagination, and creative architecture. The objective of the comprehensive sign plan is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable sign regulations.
- B. **Applicability.** Any building or development may elect to submit a comprehensive sign plan. After the approval of a comprehensive sign plan, no permanent sign shall be erected, placed, or maintained except in conformance with the Comprehensive Sign Plan.
- C. **Conditions.** The Zoning Administrator may attach conditions, requirements, or standards necessary to assure that the signs covered by the Comprehensive Sign Plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Zoning Administrator shall not base any condition on the content of a sign.
- D. **Evaluation Criteria.**
1. **Placement.** All signs shall be placed where they are visible and legible. Factors to be considered include the location of a sign relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles. Wall Signs may be approved on building walls other than the wall of a unit of a multi-tenant building in which some units have little or no visibility from the street.
  2. **Quantity.** The number of signs that may be approved within any development shall be sufficient to provide necessary facilitation of internal circulation of vehicular and pedestrian traffic and wayfinding for safety of the occupants of vehicles and pedestrians. Factors to be considered shall be those that impact safety considerations such as the size of the development and the number of development sub-areas.
  3. **Area and Height.** All signs shall comply with the sign area and height requirements established for the sign type as established in [Section 15-6-05](#) and [Section 15-6-05](#).
- E. **Application.** A comprehensive sign plan shall be submitted on a form established by the Zoning Administrator. The application shall contain the following information as well as all other information required by the Zoning Administrator to ensure compliance with the comprehensive sign plan evaluation criteria.
1. Name, address, and telephone number of the applicant.
  2. Location of building, structure, or lot to which or upon which the comprehensive sign plan shall apply.
  3. Name of person, firm, corporation, or association developing the comprehensive sign plan.
  4. Written consent of the owner or lessee of the building, structure, or land to which the proposed comprehensive sign plan is applicable.
  5. Scale drawing of all signs included in the comprehensive sign plan indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawings shall be drawn at a scale no smaller than one-eighth (1/8) inch equals one (1) foot and shall be prepared, signed, and sealed by a registered professional engineer when required by the Zoning Administrator.
  6. A scaled drawing indicating the location and position of all signs included in the comprehensive sign plan in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than one (1) inch equals fifty (50) feet.

- F. **Review and Action.** The Plan Commission shall review the comprehensive sign plan application and approve, approve with conditions, or deny the application based on the evaluation criteria. A written decision including the findings on the evaluation criteria shall be rendered to the applicant.
  
- G. **Appeals.** Any applicant who receives a notice of denial from the Plan Commission may, within thirty (30) days after receipt of such decision, appeal such decision to the Board of Zoning and Building Appeals by filing a written notice of appeal with the Zoning Administrator with an explanation as to why said decision was not warranted according to the applicant.



## MEMORANDUM

**Date:** January 30, 2023

SENT VIA EMAIL

**To:** City of Franklin UDO Update Task Force  
Régulo Martínez-Montilva, AICP, Principal Planner  
Marion Ecks, AICP, Associate Planner

**From:** Houseal Lavigne Associates  
Jackie Wells, AICP, Practice Lead  
Ruben Shell, AICP, Planner II

**Re:** Franklin, WI Unified Development Ordinance  
Draft Articles 8 - 9 Overview

The purpose of this memorandum is to provide an overview of the content contained within the draft Article 8 - Subdivision Standards and Article 9 - Administrative Standards and Procedures and portray the substantial changes to those Articles from the current Unified Development Ordinance (UDO). Questions identified by City staff and the project team for discussion by the Task Force are also provided.

### ARTICLE 8. SUBDIVISION STANDARDS

Article 8 contains all the UDO provisions that regulate the subdivision of land within the City. The Article includes regulation on a variety of topics, the configuration and orientation of lots, arrangement of streets, required street design and features, easements, water, sewer, and stormwater features, cluster development, building variety standards, and park and recreation land and school site requirements.

Section 15-8-02 Lots includes the standards regarding the configuration and orientation of lots within subdivisions. The City's existing standards, which prohibit flag lots, requiring adequate lot depth to width, and require adequate access from a public street for each lot are retained and revised for clarity.

Section 15-8-03 Street Arrangement includes standards regarding the layout and arrangement of streets. The City's existing standards, which identify the purpose each type of street serves are retained. A new provision is added to require that recreational trails be provided in accordance with the Comprehensive Outdoor Recreation Plan. The standards for alleys are revised to allow the Plan Commission to require alleys in the nonresidential and mixed-use districts and to allow for the provision of alleys in the R-M Multiple-Unit Residence District and R-V - Village Residence Districts and require that alleys be privately maintained.

Section 15-8-03 contains requires certain street elements. The standards are revised as follows:

- Cul-de-sac standards are revised to allow their use for snow storage or stormwater management
- New standards require that streets be terminated with stubs at subdivision perimeters
- A new connectivity index is established to limit the number of nodes (intersections and cul-de-sacs) relative to the number of links (road sections between intersections) within a given development
- Block widths are revised to require shorter blocks in residential, commercial, and mixed-use districts and allow longer blocks in all other districts
- Street tree standards are revised to require that developers provide compensation to plant street trees and cover the cost of tree replacement over time

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- Minimum right-of-way and paving widths for each type of street are revised to comply with Chapter 7 of the City's Comprehensive Master Plan
- Requirements for features such as ditches, sidewalks, bicycle lanes, curb lawns, and medians/turn lanes, are revised to comply with Chapter 7 of the City's Comprehensive Master Plan

Next, Section 15-8-05 Easements establishes the City's standards for the provision of easements, while Section 15-8-06 Water, Sewer, and Stormwater establishes the City's standards for the provision of water, sewer, and stormwater facilities. The City's existing standards are retained for both of these sections and revised for clarity.

Section 15-8-08 Cluster Development allows for an increase in density and reduction in the base district's bulk and dimensional standards when natural features such as wetlands, oak Savanna are preserved.

Section 15-9-09 establishes anti-monotony standards that require that dwellings placed on consecutive adjacent lots be varied architecturally from one another.

Section 15-9-10 Park and Recreation Land and School site Dedication requires that minimum quantities of certain types of recreation areas be provided within development, based on standards in the City's Comprehensive Outdoor Recreation Plan. The Section also allows the City to consider public school site dedication in the approval of subdivisions.

## Questions For Task Force Discussion

The following issues have been identified for discussion and policy direction as the Task Force considers the draft Article 8.

- Are alleys appropriate in residential districts? In previous discussions, the Task Force discussed allowing alleys so long as they are privately maintained.
- The anti-monotony standards in Section 15-8-09 are designed to promote architectural variety within subdivisions. Are the draft standards appropriate for Franklin?
- The draft of Article 8 contains a connectivity index in Section 15-8-04(H)(5) that limits the number of nodes (like cul-de-sacs) to links. Is this an appropriate control on the number of cul-de-sacs for Franklin?

## ARTICLE 9. ADMINISTRATIVE STANDARDS AND PROCEDURES

Article 9 contains all the UDO provisions regarding the City's zoning procedures and processes. The Article begins by describing the roles and responsibilities of the individuals, boards, and commissions involved in zoning procedures and processes. It then establishes the process and approval criteria for all procedures that involve review by City staff, followed by those that involve review by the City's Boards and Commissions.

Section 15-9-01 establishes standards for applicants to file a complete application, regardless of the applicable zoning process. The steps include filing with the Zoning Administrator, a completeness check, and submittal of fees.

Section 15-9-02 Zoning Procedures Responsibilities establishes the role and responsibilities of the Zoning Administrator, Plan Commission, Board of Zoning and Building Appeals, Architectural Review Board, and Historic and Preservation Commission. The City's existing standards are retained and revised for clarity.

Section 15-9-03 Administrative Procedures establishes the City's administrative processes which are approved by City staff. Procedures for zoning compliance permits, which are required for change of use applications or construction of duplex or single-family dwellings, and site plan review, which is required for any new development other than duplex or single-family dwellings. New processes are also established for temporary uses, sign permits, and interpretations, which are approved by staff.

Section 15-9-05 Conditional Uses establishes the process for Conditional Uses, including review and recommendation by the Plan Commission, and action by Common Council. A process is also established to allow the amendment of previously approved Conditional Uses.

Section 15-9-06 Variance establishes the process for Variances. New criteria for the Board of Zoning and Building Appeals to review and approve or deny variances are established to ensure that the Board uses the same standards to evaluate each successive variance application. The existing process for Area Exceptions is removed from the UDO, given its similarity in purpose to the Variance procedure.

Section 15-9-07 establishes procedures and standards for the Plan Commission to review and Common Council to approve of Map Amendments. New criteria are established including the proposal's consistency with the Comprehensive Master Plan. Similarly, Section 15-9-08 establishes procedures for the approval of Text Amendments, and includes new objective standards for Plan Commission and Common Council review.

Section 15-9-10 Appeal contains a new procedure for the Plan Commission to review and consider appeals of administrative interpretations or decisions made by the Zoning Administrator.

Section 15-9-11 Subdivision Procedures includes the City's procedures for the review and approval of subdivision applications, including minor land divisions, which are land divisions resulting in four or fewer parcels, land combinations, which involve the consolidation of parcels, and subdivisions involving the creation of more than four parcels.

Last, Section 15-9-12 Violations, Penalties, and Remedies contains the City's existing standards regarding violations of UDO provisions.

## Questions For Task Force Discussion

The following issues have been identified for discussion and policy direction as the Task Force considers the draft Article 9.

- Should the final decision to approve conditional uses be with Common Council or the Plan Commission?
- Land division variances currently exist in 15-9-0310 and appeals exist in 15-9-0311. We've removed these from the draft of Article 9 as the general appeal and variance procedures within the Article should cover the same intent. Are these two processes important to retain in the UDO?
- The existing process for area exceptions is removed, as the process is redundant with the variance process. All exceptions to bulk and dimensional standards should be covered under the variance process. Is the area exception process important to keep as a distinct process?
- The list of authorized variances that applicants can apply for are eliminated. Instead, the new text allows the BZBA to consider any variance on a case-by-case basis. Is this appropriate?
- Minor Land Divisions are proposed to be an administrative approval by staff unless the dedication of easements is required, in which case Common Council approval is required. Is this the appropriate process for Franklin?

## Article 8. Subdivision Standards

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### 15-8-01. Intent and Purpose

A. The purpose of this Article is to:

1. Establish reasonable rules and regulations governing the subdivision, development and platting of land, the preparation of plats, the location and extension of streets and highways, the installation of utilities and the provision of necessary public grounds for parks, playgrounds, and public open space,
2. Conserve, protect, and enhance property and property values;
3. To secure the most efficient use of land;
4. Discourage scattered development beyond existing public utilities and to facilitate the adequate provision of public improvements;
5. To ensure the provision of sufficient utilities with new development;
6. Limit and control the pollution of the environment that can be caused by inadequate or incomplete development;
7. Provide common grounds of understanding and a sound working relationship between the City and the subdivider;
8. Implement the goals and objectives of the Comprehensive Plan;
9. Prescribe reasonable rules and regulations governing the subdivision and platting of land; the preparation of plats;

### 15-8-02. Lots

- A. **Size, Shape, and Orientation.** The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated as determined by the Plan Commission.
- B. **Lot Lines.** Lot lines shall follow municipal boundary lines rather than cross them.

- C. **Double Frontage Lots.** Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of development from through traffic or to overcome specific disadvantages of topography and orientation, as determined by the Plan Commission.
- D. **Access.** Each lot shall front or abut a public street where possible. In the event any parcel does not front on a public street, due to the street's right-of-way width or other site conditions, a dedicated right-of-way providing access to the parcel from a public street, with a minimum width of thirty (30) feet, shall be provided.
- E. **Area and Dimensional Requirements of Lots.** Lot area and width shall conform to the requirements of this UDO for land under the jurisdiction of the City of Franklin. Building sites not served by a public sanitary sewage system or other approved system shall be of sufficient area to permit the use of an on-site soil absorption sewage disposal system designed in accordance with Chapters ILHR 83 and 85 of the Wisconsin Administrative Code as amended and Section 190-22 of the City of Franklin Municipal Code.
- F. **Lot Depth to Width.** Lots with a lot depth to width ratio greater than two (2) to one (1) are prohibited, except for the creation of outlots as approved by the Zoning Administrator.
- G. **Corner Lots.** Corner lots shall a minimum depth not less than ninety (90) percent of the minimum required lot width.
- H. **Plats Abutting a Lake or Stream.** In any plat abutting a lake or stream, lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots, or public dedications.
- I. **Land Remnants.** All land remnants below the minimum lot size shall be platted as "Outlots" which may be combined with adjacent parcels in the future.
- J. **Large Lots.** Where lots are created of a size larger than the minimum lot size required by the underlying zoning district, the Plan Commission shall require that the plat be designed as to allow for the future resubdivision of such lots into sizes compliant with the underlying zoning district.
- K. **Flag Lots Prohibited.** Flag-shaped lots, or lots not meeting the minimum lot width requirements of this Ordinance or where access to a public street right-of-way to such lots is by a narrow strip of land, shall not be permitted.

### 15-8-03. Street Arrangement

- A. **Street Layout to Conform to Official Map and/or Adopted Plans.** In any new subdivision, certified survey map, or condominium the street layout shall generally conform to the arrangement, width, and location indicated on the official map, County jurisdictional highway system plan, County Development Plan, City of Franklin Comprehensive Master Plan or plan component, detailed planning district plan, or detailed neighborhood development plan of the City.
- B. **Street Layout in Areas With No Official Map or Adopted Plans.** In areas for which such plans as enumerated in Paragraph A above have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas.
  - 1. **Arterial Streets.** Arterial streets shall be arranged to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - 2. **Collector Streets.** Collector streets shall be arranged to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street, major street, and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools, churches, or shopping centers, business



parks, and other concentrations of population or employment and to the arterial and/or major streets to which they connect. Where neighborhoods and/or commercial activity/employment centers abut along arterial streets or highways, collector streets shall be planned to align to provide secondary interconnections between abutting neighborhoods or between abutting commercial activity/employment centers.

3. **Minor Streets.** Minor streets shall be arranged to conform to the topography, to discourage use by through traffic to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
4. **Recreational Trails.** Any recreational trail identified in the City of Franklin Comprehensive Outdoor Recreation Plan shall be provided in the subdivision in accordance with the plan.
5. **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being subdivided or developed as a Condominium unless prevented by topography or other physical conditions or unless, in the opinion of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or Condominium or for the advantageous development of the adjacent tracts.
6. **Arterial Street and Highway Protection.** Whenever a proposed Certified Survey Map or subdivision contains or is adjacent to an arterial street or highway, for adequate protection of residential properties, the limitation of access and separation of through and local traffic shall be provided by reversed frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.
7. **Stream or Lake Shores.** Stream or lake shores shall have a minimum of sixty (60) feet of public access platted to the low water mark at intervals of not more than one-half (1/2) mile as required by § 236.16(3) of the Wisconsin Statutes.
8. **Reserve Strips.** Reserve strips, which intentionally prevent access to a public street from an abutting property, shall not be provided on any plat or Condominium to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Plan Commission.
9. **Alleys.**
  - a. **Commercial, Mixed-Use, and Industrial Districts.** Alleys may be provided in the commercial and mixed-use, B-P Business Park, and LI - Limited Industrial Districts for off-street loading and service access and may be required by the Plan Commission.
  - b. **Residential Districts.** Alleys may be provided in the R-M Multiple-Unit Residence District and R-V – Village Residence Districts but shall not be approved in other residential districts. New dead-end alleys shall not be approved by the Plan Commission.
  - c. **Thoroughfare Connection Prohibited.** Alleys shall not connect to a major thoroughfare, including an arterial or collector street.
  - d. **Private Maintenance Required.** All newly-constructed alleys shall be privately maintained.
- C. **Street Names.** Street names shall not duplicate or be similar to existing street names elsewhere in southern Milwaukee County, and existing street names shall be projected wherever possible. "Court" may be used in a street name only for cul-de-sac streets. The naming of streets shall be coordinated with the City Engineer.

#### 15-8-04. Street Design and Improvements

- A. **Cul-de-Sac Streets.**
  1. **Length.** Cul-de-sac streets designed to have one end permanently closed shall not exceed three-hundred (300) feet in length.

2. **Adequate Turn-Around Required.** Cul-de-sac streets shall terminate in a circular turn-around having a minimum radius of
  - a. Sixty (60) feet the center of the island to the edge of right-of-way and
  - b. Forty-five (45) feet from the center of the island to the outside curb.
3. **Islands.** Islands in the center of cul-de-sacs with a minimum radius of twenty (20) feet shall be required. Where approved by the City Engineer, cul-de-sac islands may be designed with a vegetated snow storage area or stormwater management area. Curbing may be varied as required to accommodate snow plowing or stormwater inflow per the approved design.

**B. Street Stubs.**

1. In new developments, the subdivider shall terminate streets as stubs at the outer perimeter boundaries of the development based on the criteria of this section. If the street in question meets at least two (2) of the criteria, then the street must be built to an appropriate collector street standard:
  - a. The street intersects directly with any street designated as an arterial street and provides access to an area with an overall density of ten (10) dwelling units per acre or provides access to more than one hundred fifty (150) dwelling units.
  - b. The street by its general configuration, in relationship to the existing development of the area, serves any collector function.
  - c. The street extends into an undeveloped area in such a manner as to serve any future collector function.
  - d. The street serves as the primary access to a significant nonresidential, institutional, or recreational land as well as an access to a residential area of twenty (20) or more acres.
2. Street stubs shall be clearly demarcated and identified for future street extension by street signage.
3. All street stubs shall terminate with a turn-around for vehicles.
4. All stub streets shall conform to the City's adopted version of the International Fire Code.

**C. Roadway Elevations.** Elevations of roadways passing through floodplain areas shall be designed in the following manner:

1. Freeways and arterial streets and highways shall be designed so they will not be overtopped by the one-hundred-year recurrence interval flood.
2. Collector and local minor land access streets shall be designed so they will not be overtopped by the ten-year recurrence interval flood.

**D. Street Grades.**

1. Street grades shall be established wherever practicable to avoid excessive grading, the indiscriminate removal of ground cover and tree growth, and general leveling of the topography.
2. All changes in street grades shall be connected by vertical curves as approved by the City Engineer. Vertical curves for arterial street shall have a minimum length equivalent in feet of three (3) times the design speed of the street in miles per hour.
3. **Minimum Grade.** The minimum centerline grade of any street or public way shall be one-half (0.5) percent unless a flatter grade is approved by the City Engineer.

4. **Maximum Grade.** Unless necessitated by exceptional topography and subject to the approval of the City Engineer, the maximum centerline grade of any street or public way shall not exceed the following:
  - a. **Arterial Streets:** Five (5) percent.
  - b. **Collector Streets:** Six (6) percent.
  - c. **Minor Streets, Alleys, and Frontage Streets:** Six (6) percent.
  - d. **Pedestrian Ways:** Eight (8) percent and meeting all applicable "American with Disabilities Act (ADA) Accessibility Guidelines."

**E. Radii of Curvature.**

1. When a continuous street centerline deflects at any one point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following unless approved by the City Engineer:
  - a. **Arterial Streets and Highways:** Five-hundred (500) feet.
  - b. **Collector Streets:** Three-hundred (300) feet.
  - c. **Minor Streets:** Two-hundred (200) feet.
  - d. **Rural and Suburban Streets:** May be less than two-hundred (200) feet only in areas where natural resource features are to be preserved as determined by the Plan Commission.
2. A tangent at least one-hundred (100) feet in length shall be provided between reverse curves on arterial and collector streets.

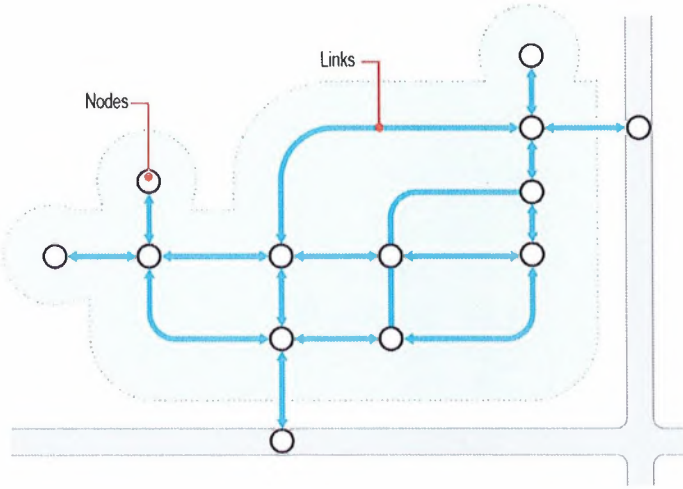
**F. Half-Streets.** Where an existing dedicated or platted half-street is adjacent to the tract being subdivided by either a subdivision plat or certified survey map, the other half of the street shall be dedicated by the subdivider. The platting of new half-streets shall not be permitted.

**G. Excessive Street Right-of-Way Length to Serve Subdivision to be Avoided.** The use of excessive street right-of-way length, as determined by the City Planner and/or City Engineer, to serve a subdivision shall be avoided.

**H. Street Intersections and Connectivity.**

1. **Right Angles Required.** Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
2. **Maximum Number of Streets Converging at Single Intersection.** With the exception of roundabout intersections approved by the City Engineer, the number of streets converging at one conventional intersection shall be two (2).
3. **Distance Between Intersections Along Arterial Streets and Highways.** The distance between street intersections along an arterial street or highway shall be at least one-thousand two-hundred (1,200) feet.
4. **Alignment of Minor Streets Required.** Local streets crossing any collector or arterial street shall align with each other. Minor streets that cross a collector or arterial street and whose center lines are less than two-hundred-fifty (250) feet apart, measured along the centerline of the arterial or collector street, shall be prohibited.

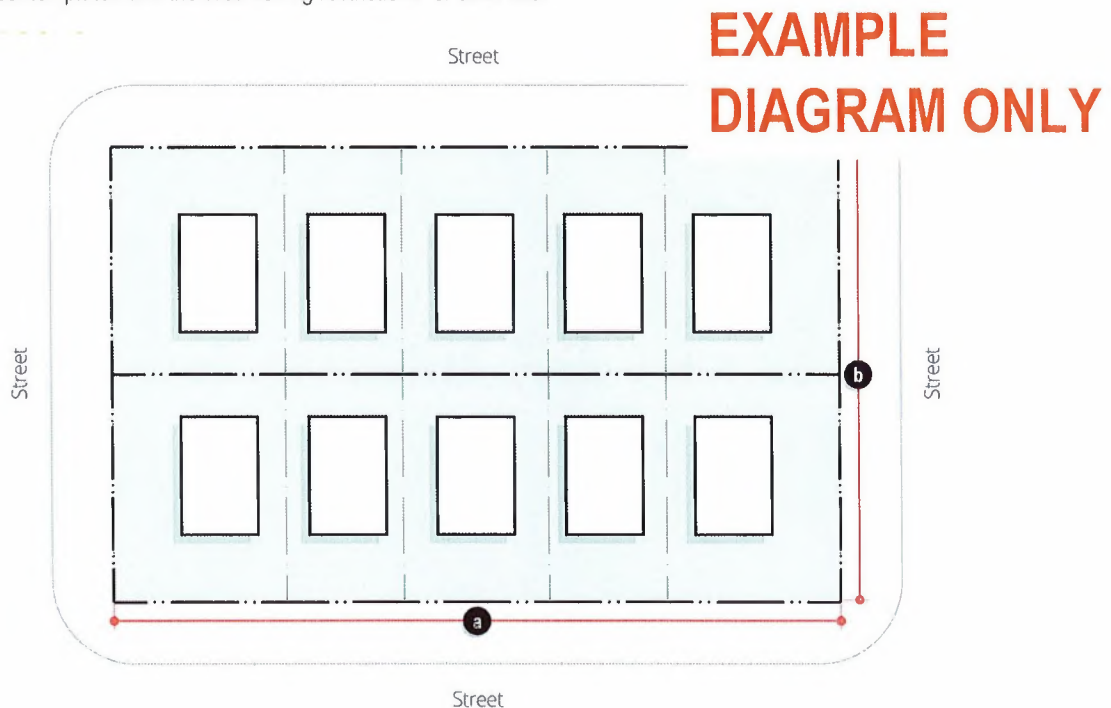
- 5. **Connectivity Index.** A connectivity index shall be used to determine the adequacy of street layout design. A connectivity index is calculated as the ratio of the number of street links (road sections between intersections) in the subdivision street layout divided by the number of street nodes (intersections and cul-de-sac heads). Streets within a subdivision shall have a minimum connectivity index measurement of one and four-tenths (1.4).



Connectivity Index Calculation  
Links = 17  
Nodes = 13  
Connectivity Index =  $17 / 13 = 1.3$

**EXAMPLE  
DIAGRAM ONLY**

- I. **Blocks.** The widths, lengths, and shapes of blocks that are created shall be suited to the planned use of the land, zoning requirements, overall residential density, the need for convenient access, control and safety of street traffic, and the limitations and opportunities of topography. In addition:
  - 1. **Maximum Block Length.** The length of blocks shall be limited as follows unless exceptional topography natural resource features, request of the Plan Commission, or other factors necessitate an alternative design.
    - a. **Residential, Commercial and Mixed-Use Districts.** In residential, commercial, and mixed use districts, blocks shall not, exceed eight-hundred (800) feet in length.
    - b. **All Other Districts.** In all other districts, blocks shall not exceed one-thousand five-hundred (1,500) feet in length.
  - 2. **Block Width.** The width of blocks shall be wide enough to provide for two (2) tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.



- 3. **Mid-Block Utility Easements Required.** Utility easements for electric power and telephone service shall, where practical, be placed on mid-block easements along rear lot lines, unless the protection of natural resources require placement elsewhere. When natural resources to be protected are present, all utility easements shall be shown on the final plat, certified survey map, or condominium plat prior to approval by the City.
- I. **General Improvement Requirements.**
    - 1. **Payment For Improvements.**
      - a. The improvements prescribed in this Ordinance are required as a condition of approval of a subdivision.
      - b. The required improvements described in this Ordinance shall be installed, furnished, and financed at the sole expense of the developer. However, in the case of required improvements in a commercial, industrial, or other nonresidential area, the cost of such improvements, at the sole discretion of the Common Council, may be financed through special assessments.

- c. A contract, or "Development Agreement," with the developer as specified under § 15-2.0303 of this Ordinance shall be required. Financial sureties described in § 15-2.0303 of this Ordinance shall be required.
2. **General Standards.**
    - a. The required improvements set forth in this Ordinance shall be installed in accordance with the City Engineer's "City of Franklin Design Standards and Construction Specifications." Where the City has no prescribed standards and specifications, the improvements shall be made in accordance with good engineering practices, approved prior to the commencement of construction by the City Engineer.
    - b. Any and all improvements or utility services required by this Ordinance, shall be extended to the limits of the parcel or lot upon which a building permit is requested unless exempted by the Plan Commission. Monuments shall be installed at all lot corners no later than upon completion of final utility installation.
    - c. In the event the improvements are required to the end of the parcel or lot, the owner, Subdivider, or Condominium Developer shall be required to post financial sureties with the City pursuant to § 15-2.0303 of this Ordinance if improvements are not made.
  3. **Survey Monuments.** The Subdivider shall install survey monuments placed in accordance with the requirements of Chapter 236.15 of the Wisconsin Statutes. Monuments shall be installed at all lot corners no later than upon completion of final utility installation and as may be required by the City Engineer.
  4. **Grading.**
    - a. **Right-of-Way and Roadbed Grading.** After the installation of temporary block corner monuments and establishment of street grades, the Subdivider shall grade the full width of the right-of-way of all streets proposed to be dedicated. The Subdivider shall grade the roadbeds in the street rights-of-way to subgrade.
    - b. **Grading of Cut and Filled Lands.** Cut and filled lands shall be graded to a maximum slope of one to four, or the soil's angle of repose, whichever is less, and covered with permanent vegetation.
    - c. **Preservation of Septic Field Areas During Grading.** During grading operations, every effort shall be made by the Subdivider or Condominium Developer to preserve and protect any active or planned septic field areas from damage.
  5. **Surfacing.** Unless superseded by a developer's agreement, the Subdivider shall complete the base and binder courses of street paving prior to issuance of building permits for structures within the subdivision after the installation of all required utility and stormwater drainage improvements. The final surface course shall be placed no earlier than at ninety (90) percent completion of the subdivision or when required by law, whichever is earlier.
  6. **Curb and Gutter.** In all subdivisions, certified survey maps, and condominiums the subdivider shall construct concrete curbs and gutters except where an alternative street edge is incorporated as part of an approved stormwater management plan. Where possible, provision shall be made at the time of construction for driveway access curb cuts.
  7. **Traffic Control and Street Name Signs.** The developer shall pay all costs associated with the City's installation of traffic control and street name signs along all streets proposed to be dedicated to the public. Traffic control and street name signs shall meet the following standards:
    - a. **Traffic Control Signs.** The design and placement of traffic control signs shall follow state and local regulations or the requirements specified in the most current edition of the Wisconsin Manual on Uniform Traffic Control Devices for Streets and Highways published by the Wisconsin Department of Transportation and the Federal Highway Administration.
    - b. **Street Name Signs.** The Developer shall install at least two (2) street name signs, of a design and color as approved by the City, at each street intersection proposed to be dedicated and one at each "T" intersection. Signs shall be installed to be free of visual obstructions.

8. **Sidewalks.** Sidewalks shall be a minimum of five (5) feet in width.
9. **Bicycle Lanes.** Bicycle lanes shall be at least six (6) feet in width.
10. **Street Trees.**
  - a. **Compensation Required.** The developer will provide compensation to plant street trees in the form of a letter of credit or escrow as established in a fee schedule as established by Common Council. In addition, an amount equivalent to ten (10) percent of the fee for required trees shall be provided in a letter of credit or escrow for a minimum period of three (3) years to ensure that any failed trees are replaced.
  - b. **Waiver.** In the event an applicant or property owner requests specific accommodation or modification pursuant to the City planting of street trees in accordance with this section, the City Forester may in his/her sole discretion vary the planting plan, provided the overall number of required trees is planted within the perimeter of the development and provided the accommodation or modification does not adversely affect safety, aesthetic, drainage, or environmental conditions in the vicinity of the site.
11. **Street Lights.** The developer shall pay all costs associated with the installation of streetlights. Wisconsin Electric Power Company system leased lights shall be installed at all intersections and other critical locations within residential developments as determined by the City Engineer. Other nonresidential locations shall be served by a dedicated lighting system to be owned and maintained by the City unless otherwise superseded by an agreement with the Common Council.

J. **Street Design Requirements.**

1. **Right-of-Way and Paving Widths.** The minimum right-of-way and paving widths of proposed streets shall be as detailed in **Table ##-#-##**.

Table 15-8-04(J)(1) Minimum Paving and Right-of-Way Widths		
Type of Street	Minimum Paving Width (Feet)	Minimum Right-of-Way Widths (Feet)
Freeway or Expressway	As required by WisDOT	
Major Urban Arterial	36 - Dual	130
Major Rural Arterial	24 - Dual	130
Minor Urban Arterial	30 - Dual	130
Minor Rural Arterial	24 - Dual	130
Urban Collector Street	36	80
Rural Collector Street	24	80
Minor Street (High Volume)	24	66
Minor Street (Typical)	28	60
Minor Street (Difficult Terrain)	20	50
<b>Notes</b>		
The paving widths shall include required bicycle lanes.		

2. **Required Design Elements.** Required street design elements shall be as established per street type in **Table ##-##**. The dimensions and placement of street design elements required in **Table ##-##** shall comply with the requirements of the City of Franklin Comprehensive Master Plan as adopted.
- a. A "●" indicates an element that is required on both sides of a given street.
  - b. A "■" indicates an element that is required on one side of a given street.
  - c. A "◆" indicates an element that is required.
  - d. A "▲" indicates an element that is required at the discretion of the City.

<b>Table 15-8-04(J)(2) Required Street Design Elements</b>					
Type of Street	Required Street Design Element				
	Ditch	Sidewalk	Bicycle Lane	Curb Lawn	Median/Turn Lane
<i>Freeway or Expressway</i>	As required by the WisDOT				
<i>Major Urban Arterial</i>		●		●	▲
<i>Major Rural Arterial</i>	●				▲
<i>Minor Urban Arterial</i>		●	●	●	▲
<i>Minor Rural Arterial</i>	●				▲
<i>Urban Collector Street</i>		●	●	●	
<i>Rural Collector Street</i>	●				
<i>Minor Street (High Volume)</i>		●	●	●	
<i>Minor Street (Typical)</i>		●	●	●	
<i>Minor Street (Difficult Terrain)</i>				●	

- K. **Rural Street.** When permanent rural street sections have been approved by the Common Council in areas not located within the urban service boundaries of the City of Franklin, the Subdivider shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the City, including the City of Franklin Design Standards and Construction Specifications" and as set forth in **Table 15-5.0103** of this Ordinance.

**15-8-05. Easements**

- A. **Natural Resource Features Protection/Mitigation, Conservation, Landscape Buffer yard, and Utility Easements Required.** The Plan Commission shall require natural resource features protection/mitigation, conservation, landscape bufferyard, and/or utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for natural resource feature protection, landscape bufferyards (see **Division 15-5.0300** of this Ordinance), electric power and communication lines, wires, conduits, stormwater management systems, storm and sanitary sewers, and gas, water, and other utility lines.
- B. **Site, Subdivision, Certified Survey Map, or Condominium Plat Traversed by Watercourse, Drainageway Channel, or Stream.** Where a site, subdivision, certified survey map, or condominium plat is traversed by a watercourse, drainageway channel, or stream, an adequate drainageway or easement shall be provided as may be required by the City Engineer. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission, and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow. These design details are subject to review and approval by the City Engineer.
- C. **Minimum Width Required for All Utility Easements.** All public utility easements shall be a minimum of twenty (20) feet in width or wider where required by the City Engineer.



**15-8-06. Water, Sewer, and Stormwater**

- A. When public sanitary sewer facilities are available to the subdivision plat, certified survey map or condominium, the Subdivider or Condominium Developer shall construct sanitary sewer facilities in such a manner as to make adequate sanitary sewer service available to each lot within the subdivision or certified survey map or dwelling unit within a condominium. In addition:
1. **Extent of Required Installation of Lateral Sewer Lines.** The Plan Commission shall require the installation of sewer laterals to the street lot line.
  2. **Costs Associated with Sanitary Sewers Eight Inches or Less in Diameter.** The developer shall assume the cost of installing all sanitary sewers that are eight inches in diameter or less.
  3. **Costs Associated with Sanitary Sewers Larger than Eight Inch in Diameter.** If larger than eight (8) inch diameter sanitary sewers are required, the costs of such larger sewers shall be prorated in proportion to the ratio which the total sewage of the proposed subdivision, Certified Survey Map, or Condominium is to the total sewage capacity to be served by such larger sewer and the excess cost shall be either borne by the City of Franklin or assessed against the total tributary sewer area.
- B. **Wastewater Holding Tanks.** Where public sanitary sewer facilities are not available in the Commercial and Mixed-Use, Industrial and Agricultural, and Miscellaneous zoning districts only, the Plan Commission or Common Council may require the developer to construct either individual or common wastewater holding facilities sufficiently sized and placed to accommodate the proposed development. The individual or common wastewater holding facilities shall be constructed pursuant to all applicable State, County, and local regulations as amended and in such a manner to make available wastewater holding facilities to the proposed development.
- C. **Stormwater Management Facilities.** The developer shall construct stormwater management facilities adequate to serve the proposed development. These facilities may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention and detention structures, infiltration/biofiltration basins, and other green infrastructure. All such facilities shall be of adequate size and grade to hydraulically accommodate the design volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. All stormwater management facilities shall be constructed in accordance with the provisions of the City of Franklin Stormwater Management Ordinance. In addition:
1. **Detailed Site-Specific Stormwater Management Plan Required.** A detailed stormwater management plan consistent with the requirements of §15-8.0609, Storm Water Management Plan, shall be submitted.
    - a. The design criteria, the size, type, grades, and installation of all stormwater management measures shall be in accordance with the plans and standard specifications, including the City of Franklin Design Standards and Construction Specifications.
  2. **Storm Sewers.** The developer shall assume the cost of installing all required storm sewers within the proposed development.
  3. **Cost Responsibility.** Subdivider shall be responsible for all City costs to review the stormwater management plan.
- D. **Water Supply Facilities.**
1. **Adequate Public Water Supply Facilities to be Made Available.** When public water supply and distribution facilities are available to the subdivision plat, certified survey map, or condominium or when it is proposed to establish a private water supply and distribution system to serve two (2) or more lots or dwelling units, the Subdivider or Condominium Developer shall cause such public water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the Subdivision or Certified Survey Map or to each Condominium dwelling unit. Said water supply facilities shall be made available pursuant to City of Franklin Water Utility extension rules and policies.

2. **Additional Water Supply Facilities Requirements.** When a public water supply is not available, the Common Council may allow the subdivider of a subdivision or certified survey map or condominium developer to make provision for adequate private water systems as required by the City in accordance with the standards of the State of Wisconsin. In addition:
  - a. **Water Laterals to Street Lot Line.** The installation of water laterals to the street lot line are required.
  - b. **Size, Type, and Installation of Public and Private Water Mains.** The size, type, and installation of all public and private water mains proposed to be constructed shall be in accordance with plans and standard specifications, including the City of Franklin's public water supply comprehensive system plan and the City of Franklin Design Standards and Construction Specifications.
  - c. **Costs of Installing Water Mains, Water Laterals, Water System Appurtenances or Wells.** The Subdivider or Condominium Developer shall assume the cost of installing all water mains, water laterals, water system appurtenances or wells within the proposed subdivision, Certified Survey Map or Condominium except for the added cost of installing public water mains greater than eight inches in diameter pursuant to City of Franklin Water Utility extension policies. The cost of such larger water mains or other water system-related facilities shall be pursuant to City of Franklin Water Utility extension rules and policies.
  - d. **Installation of Water Main.** The Subdivider or Condominium Developer shall install water mains in accordance with this Ordinance and specifications of the City, including the City of Franklin Design Standards and Construction Specifications. For all residential development (except Certified Survey Maps abutting existing public street rights-of-way), all water mains shall be extended to the farthest property line of any property served which shall include the full property frontage along a public street right-of-way.
- E. **Other Utilities.** The Subdivider or Condominium Developer shall cause appropriate utilities such as gas, electrical power, cable television, and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision or Certified Survey Map and to each dwelling unit in a Condominium. No such electrical, cable television, or telephone service shall be located on overhead poles. In addition, plans indicating the proposed location of all gas, electrical power and telephone, and distribution and transmission lines required to service the subdivision, certified survey map, or condominium shall be approved by the City.

**15-8-07. Soil Erosion and Sediment Control**

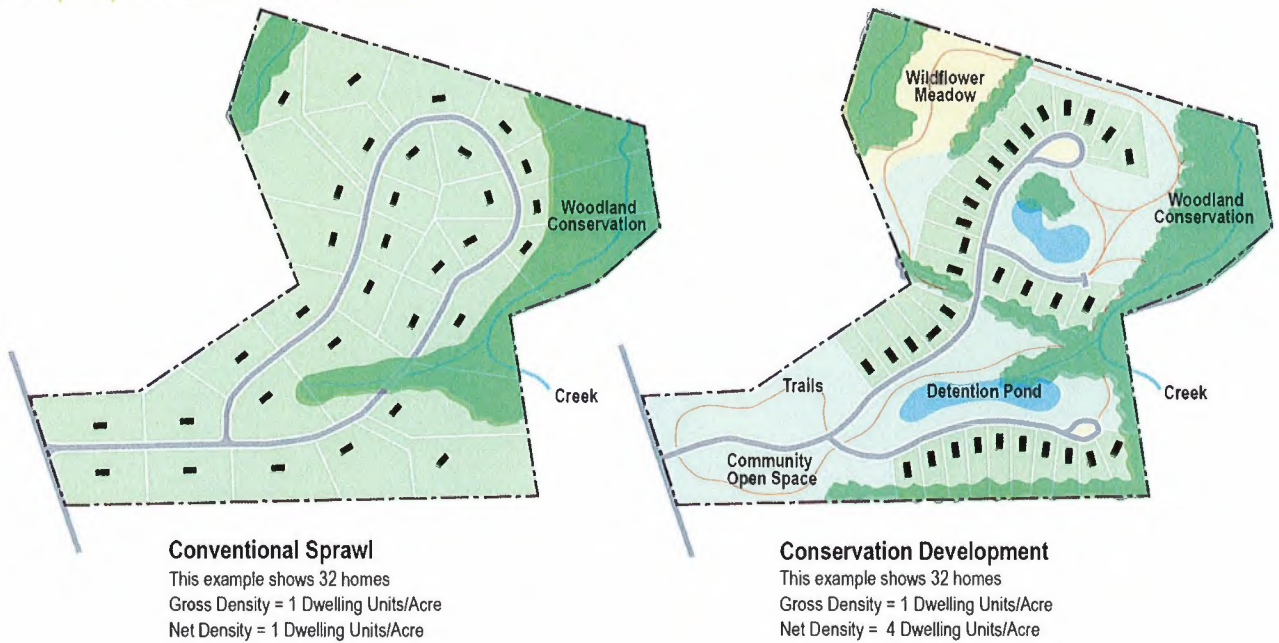
- A. The provisions of §15-8.0118 shall apply to all subdivisions.

**15-8-08. Cluster Development**

- A. Cluster development is allowed in residential subdivisions in the R-C, R-SE, and R-SR Districts to encourage and accommodate in a unified project, creative and imaginative approaches to development that preserve sensitive natural areas.
- B. **Resources to be Conserved.** To qualify for cluster development any land located in a special flood hazard area, as determined by the Federal Emergency Management Agency, shall be placed in a conservation easement.
- C. **Maximum Density per Acre.** The gross density of a cluster development shall not exceed the maximum dwelling units per acre detailed in Table ##-#-##.

<b>Table 15-8-08(C) Maximum Density per Acre</b>	
<b>District</b>	<b>Maximum Density</b>
R-C	4.35 dwelling units/acre
R-SE	2.42 dwelling units/acre
R-SR	4.35 dwelling units/acre

- D. **Maximum Dimensional Standards Reduction.** The dimensional standards established in **Table ###-###-###** may be reduced by thirty (30) percent or by the cumulative total land area to be placed in a conservation easement, whichever is less.
- E. **Density Bonus.** The maximum gross density per acre, per district, may be exceeded by a maximum of thirty (30) percent if a minimum of one (1) of the following sensitive natural areas are placed in a conservation easement. The maximum allowed density bonus shall be as determined by the Common Council and shall be directly tied to the amount of land area placed in a conservation easement.
  - 1. Wetlands,
  - 2. Oak Savanna landscapes,
  - 3. Mature tree stands,
  - 4. Prime farmland,
  - 5. Critical habitat, and/or
  - 6. Other as approved by the Zoning Administrator.



## EXAMPLE DIAGRAM ONLY

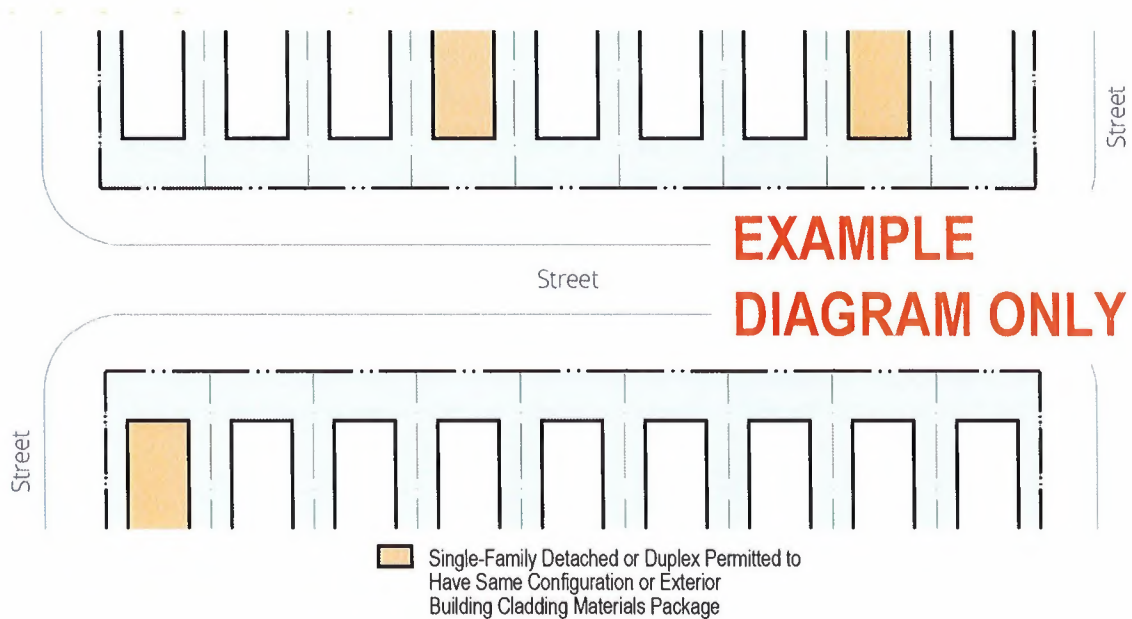
### 15-8-09. Anti-Monotony Standards

#### A. Building Variety Standards.

1. No new single-family or duplex dwelling units shall be similar in appearance to any other single-family detached or duplex dwelling units within three (3) units on either side of the subject property or on any of the five (5) units across the street from the subject property.
2. On cul-de-sac turnarounds, no single-family or duplex dwelling shall be similar in appearance to another dwelling fronting on the turnaround.

#### B. Similarity Standards. Any two (2) dwelling units shall be considered similar in appearance if they are identical or nearly identical to one another in any three (3) of the following characteristics:

1. Roof type (gable, hip, mansard, gambrel, flat, combination);
2. Roof height;
3. Approximate dimensions (height and length) of the front wall closest to the front lot line;
4. Shape of the front elevation silhouette;
5. Relative location and size of windows on the front elevation;
6. Relative location and dimensions of garage door(s), if included on the front elevation; and
7. Type(s) of exterior building cladding materials on the front elevation.



**15-8-10. Park and Recreation Land and School Site Dedication**

As a condition of approval of a final plat of a subdivision, the developer shall dedicate land for park and recreational purposes and for school sites to serve the needs of residents of the development, or a cash contribution in lieu of the land dedication, or a combination of both, at the discretion of the City, in accordance with the criteria and formula below.

**A. Criteria For Requiring Park and Recreation Land Dedication.**

1. **Requirements and Population Ratio.** The quantity of land required for park dedication shall result directly from the total population of the proposed development. The total requirement shall be ten and one-fifth (10.2) acres of land per one thousand (1,000) residents. The required ten and one-fifth (10.2) acres shall be allocated into different types of recreation areas as shown in Table ##-###, or as may be required by Common Council at its discretion.

Table 15-8-10(A) Parkland Dedication Requirements		
Type of Recreation Area	Size Range	Minimum Acres Per 1,000 People
Mini-Level Public Outdoor Recreation Land	Less than 5 acres	1
Neighborhood Playground	Minimum 8 acres	1.7
Neighborhood Level Public Outdoor Recreation Land	5-25 acres	
Community Playfields	12-20 acres	2.2
Community Level Public Outdoor Recreation Land	25-99 acres	
Regional and Multi-Community Level Public Outdoor Recreation Land	250 acres or greater	5.3
<b>Total</b>		<b>10.2</b>

- B. **Public School Site Dedication.** To properly locate and preserve sites for public schools as the City develops on the basis of the additional need created by the individual certified survey map, subdivision plat, or condominium, the following provisions are established:

1. **Reservation of Potential Future School Sites.**

- a. In designing the certified survey map, subdivision plat, or condominium, consideration shall be given to the adequate provision of, and correlation with, public school sites.
- b. When a certified survey map, subdivision plat, or condominium, is filed with the City for approval, the Zoning Administrator shall notify Franklin Public Schools and when it is determined by the School Board of Franklin Public Schools that a portion of the certified Survey Map, subdivision plat, or condominium, is required for such future school sites, or that the Plan Commission determines that a portion of the certified survey map, subdivision plat, or condominium, is so required under the City of Franklin Comprehensive Master Plan, the Subdivider or Condominium Developer (as applicable) may be required to reserve such area for not more than five years, during which Franklin Public Schools, through the City, shall either acquire the property or release the reservation. If the parties are unable to agree on an acquisition price, either party may commence an action for declaratory judgment to determine the fair market value of such property and to compel conveyance accordingly; the filing of such action shall toll the expiration of the five (5) year time period.

2. **Dedication of Land.**

- a. Where land has been required to be reserved pursuant to § 15-5.0111(A) above, or when the subdivider or developer (as applicable) owns other land that has been determined by the Plan Commission and Franklin Public Schools to be acceptable for school site purposes, the subdivider or condominium developer (as applicable) may be required to dedicate such land.
- b. The representative cash value of the land to be dedicated shall be determined by the City and subdivider or Condominium Developer (as applicable) on the basis of full and fair market value of the land to be dedicated. If the value of such land cannot be determined satisfactorily by the City and the subdivider or condominium

developer (as applicable), an appraisal board consisting of one appraiser selected by the City at its own expense, one selected by the subdivider or condominium developer (as applicable) at his own expense, and a third selected by the other two appraisers at City expense, shall determine the value upon a consensus of a majority of the Plan Commission. If a majority determination is not made by the appraisal board within forty-five (45) days of the date of selection of the third appraiser, the average of the three appraisals shall be the value.

- c. The determination as to the feasibility of dedication shall be made by the Plan Commission.

## Article 9. Administrative Standards and Procedures

15-9-01	General Application Requirements	1
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### 15-9-01. General Application Requirements

#### A Authorization

- 1 An application for any zoning procedure, except for amendments, may be filed only by the owner or lessee of the property, or by an agent or contract purchaser specifically authorized by the owner to file such application
- 2 An application for an amendment may be filed by an owner, lessee, agent or contract purchaser of property located in the City or by Common Council, Plan Commission, or the Zoning Administrator

#### B Filing

- 1 An application for any zoning procedure shall be filed with the Zoning Administrator
- 2 The application shall be on forms provided by the City and shall be filed in such number as the instructions provide
- 3 All plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal
- 4 The application shall include all information, plans, and data, specified in the application requirements manual

#### C Completeness

- 1 The Zoning Administrator shall determine whether the application is complete
- 2 If the application is not complete, the Zoning Administrator shall notify the applicant of any deficiencies and shall take no steps to process the application until the deficiencies are remedied
- 3 Once the Zoning Administrator has determined that the application is complete, the application shall be reviewed and acted upon by the Zoning Administrator or scheduled for consideration at the appropriate meeting

**D Fees**

- 1 Every application shall be accompanied by the required filing fee as established and modified, from time to time, by Common Council
- 2 The failure to pay such fee when due shall be grounds for refusing to process the application and for denying or revoking any permit or approval for the subject property
- 3 No fees shall be waived and no fees shall be refunded except those authorized by the Common Council
- 4 The Common Council shall adopt the City Fee Schedule by resolution

**E Withdrawal of Application** An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a City official, commission, or board. Such withdrawal shall be made in a written statement to the City.

**F Successive Applications**

- 1 A subsequent application shall not be reviewed or heard within one (1) year of the date of denial unless there is substantial new evidence available or if a significant error in law or of fact affected the prior denial
- 2 Such subsequent application shall include a detailed statement of the grounds justifying its consideration
- 3 The Zoning Administrator shall make a determination as to whether the subsequent application is substantially the same as the original application
- 4 If the Zoning Administrator finds that there are no grounds for consideration of the subsequent application, they shall summarily and without hearing deny the request

**15-9-02. Zoning Procedures Responsibilities**

**A Zoning Administrator.** The City Planning and Zoning Administrator of the City of Franklin is designated as the Zoning Administrator of said City, to be responsible for enforcing this UDO. The Zoning Administrator shall have the power and shall see that the provisions of this Ordinance are properly enforced.

- 1 **Duties of the Zoning Administrator.** In the enforcement of this Ordinance the Zoning Administrator shall perform the following duties
  - a Issue the necessary Zoning Compliance Permits and other permits as provided for in the provisions of this Ordinance and assure that the provisions of this Ordinance have been complied with
  - b Keep an accurate record of all permits and interpretation, numbered in order of issuance, in a record book for this purpose. The Zoning Administrator shall further record the first-floor elevations of any structure erected or placed in the floodplain districts
- 2 **Authority.** In the enforcement of this Ordinance the Zoning Administrator shall have the power and authority for the following
  - a At any reasonable time, and for any proper purpose, to enter upon any public or private premises and make inspection thereof
  - b Upon reasonable cause or question as to proper compliance, to revoke any Building or Occupancy Permit and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use which is in violation of the provisions of this Ordinance, such revocation to be in effect until reinstated by the Zoning Administrator or the Board of Zoning and Building Appeals
  - c In the name of the City, and with authorization of the Council for matters initiated in Circuit Court and without authorization of the Council for matters initiated in Municipal Court, commence any legal proceedings necessary



to enforce the provisions of this Ordinance or the City of Franklin Building Code including the collection of forfeitures provided for herein

**B City Plan Commission.** The City Plan Commission shall have the following functions and duties

- 1 **Make and Adopt a Comprehensive Plan.** To make and adopt a Comprehensive Plan for the physical development of the municipality including any areas outside of its boundaries in accordance with § 62 23 of the Wisconsin Statutes
- 2 **Make and Recommend an Official Map.** To make and recommend an Official Map to the Common Council in accordance with § 62 23 of the Wisconsin Statutes
- 3 **Prepare and Recommend a Zoning District Plan and Regulations.** To prepare and recommend a zoning district plan and regulations to the Common Council in accordance with § 62 23 of the Wisconsin Statutes
- 4 **Prepare and Recommend Land Division Regulations.** To prepare and recommend land division regulations to the Common Council in accordance with § 236 45 of the Wisconsin Statutes
- 5 **Changes to the Comprehensive Plan.** To make any changes to the Comprehensive Plan they deem necessary or desirable and to recommend any changes or amendments to the Common Council that they deem necessary or desirable concerning the Official Map and Official Map Ordinance, Zoning and Land Division provisions of the Unified Development Ordinance, and Fire Prevention Ordinances
- 6 **Matters Referred to the City Plan Commission.** To consider and report or recommend on all matters referred to them including, but not limited to, Conditional Use Permits
- 7 **Variances to the Land Division and Platting Provisions of this Ordinance.** The granting of variances to the land division and platting related aspects of this Ordinance shall be the sole charge of the Plan Commission [See State ex rel Westbrook v City of New Berlin, 120 Wis 2d 256, 354 N W 2d 206 (Ct App 1984)]
- 8 **Hold Public Hearings and Informational Meetings.** To hold public hearings and informational meeting on matters referred to the City Plan Commission

**C Board of Zoning and Building Appeals.** The Board of Zoning and Building Appeals shall have the following powers pertaining to the City of Franklin's zoning regulations and Chapter 30 "Building Code" of the City of Franklin's Municipal Code

- 1 **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or the Director of Inspection Services, and also where it is alleged there is an error in any order, requirement, decision or determination made by the Fire Official, to hear and decide an appeal of such error pursuant to and upon the standards set forth in §§ 26 10 and 26 11 of the City of Franklin Municipal Code
- 2 **Variances.** To hear and grant applications for variances pursuant to the provisions of § 62 23(3) of the Wisconsin Statutes as amended and to hear and grant applications for minor variances pursuant to this Division of this Ordinance Use variances shall not be granted No variance shall be granted which may vary any term or provision of this UDO as it pertains to any property which is subject to a Conditional Use resolution or a Planned Unit Development or vary any term of such Conditional Use resolution or Planned Unit Development itself, unless the application for such variance is specifically authorized within such Conditional Use resolution or Planned Unit Development ordinance
- 3 **Interpretations.** To hear and decide applications for interpretation of the zoning regulations, also to hear and decide disputes relative to the boundaries of the zoning districts
- 4 **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation Whenever the Board of Zoning and Building Appeals permits such a substitution, the use may not thereafter be changed without application

- 5 **Permits.** The Board of Zoning and Building Appeals may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit
- 6 **Assistance.** The Board of Zoning and Building Appeals may request assistance from other City officers, departments, commissions, and boards
- 7 **Oaths.** The Chairman of the Board of Zoning and Building Appeals may administer oaths and compel the attendance of witnesses

D **Architectural Review Board.**

- 1 **Establishment.** There is hereby established an Architectural Review Board for the City of Franklin for the purpose of promoting compatible development, aesthetics, stability, or property values, and to prevent impairment or depreciation of existing developments
- 2 **Compliance.** No structure shall hereafter be erected, moved, reconstructed, extended, enlarged, or have its exterior significantly altered or changed without the Architectural Review Board's approval, however, on matters that require zoning approval by the Plan Commission, they shall act as the Architectural Review Board, and the Plan Commission may request the assistance of the Architectural Review Board. Small accessory structures are exempt unless the Zoning Administrator requests a determination by the Architectural Review Board
- 3 **Membership.** The Architectural Review Board shall consist of six (6) regular and two (2) alternate members. The City Director of Inspection Services or his/her designee shall be an ex officio member. Members shall be residents of the City of Franklin appointed by the Mayor, subject to confirmation by the Common Council. Alternate members shall act only when a regular member is absent or refused to vote due to a conflict of interest. Terms shall be staggered for three-year periods
  - a **Chairman.** Chairman shall be appointed by the Mayor
  - b **Recording Secretary.** Recording Secretary shall be the Director of Inspection Services or his/her designee
  - c **Officials Oaths.** Official oaths shall be taken by all members in accordance with § 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointments
  - d **Vacancies.** Vacancies shall be filled for the unexpired term in the same manner as appointments for the full term within one month of the occurrence of the vacancy
- 4 **Organization.** The Architectural Review Board shall organize and adopt rules for its own government in accordance with the provisions of this subsection
  - a **Meetings.** Meetings shall be held semimonthly or at the call of the Chairman or when requested by the Director of Inspection Services or his/her designee and shall be open to the public
  - b **Minutes.** Minutes shall be kept showing all actions taken and shall be a public record. The grounds for every decision shall be stated
  - c **Quorum.** Quorum shall be four members, and all actions shall require the concurring vote of at least four members
- 5 **Powers.** The Architectural Review Board shall have the following power
  - a **Hear and Decide Applications.** Hear and decide applications for permission to erect, move, reconstruct, extend, alter, or significantly change the exterior of all structures
  - b **Approve, Deny, or Conditionally Approve the Application.** Approve, Deny, or Conditionally Approve the application and may request such modifications as they may deem necessary to carry out the purpose of this section

- c **Assistance.** The Architectural Review Board may request assistance from other municipal officers, departments, boards, and commissions
    - d **Additional Information.** Request applicant to furnish additional information
  - 6 **Application.** Applications for approval by the Architectural Review Board shall be made to the Director of Inspection Services and shall be accompanied by plans showing the exterior elevations of the existing and proposed structure, description of the proposed materials, proposed floor grades, and a list of the names and addresses of the parties in interest Applications for Architectural Review shall include that information and data as required under § 15-7 0800 of this Ordinance
  - 7 **Findings.** The Architectural Review Board shall not approve any application unless they find beyond a reasonable doubt that the following facts and conditions exist and shall so indicate in the minutes of their proceedings
    - a **Conformance with Architectural Review Principles and Standards.** The exterior design proposed is in conformance with the principles and standards set forth in § 15-7 0802 of this Ordinance
    - b **No Depreciation of Property Values.** The exterior design is not unsightly or obnoxious and is not disharmonious or so similar to existing or proposed neighboring developments that substantial depreciation of neighboring property or development will be caused by the applicant's proposal
  - 8 **Decision.** The Architectural Review Board shall decide all applications within five (5) days after its review The Director of Inspection Services or his/her designee shall notify the applicant within five days after the Architectural Review Board's decision is made on the review of any application
  - 9 **Appeals.** Any person or persons aggrieved by any decision of the Architectural Review Board may appeal the decision to the Board of Zoning and Building Appeals Such appeal shall be filed with the City Clerk within thirty (30) days after filing of the decision with the Zoning Administrator
- B **Historic Preservation Commission.** There is hereby established a Historic Preservation Commission for the City of Franklin to safeguard the City's historic and cultural heritage, stabilize and improve property values, promote civic pride in the beauty and noble accomplishments of the past, protect and enhance the City for its residents, tourists and visitors for education, pleasure, and general welfare, and to strengthen the economy of the City
  - 1 **Membership**
    - a **Members.** The Historic Preservation Commission shall consist of seven (7) residents of the City appointed by the Mayor subject to confirmation by the Common Council Memberships shall consist of the following one (1) shall be a registered architect or graduate architect, one (1) shall be a recognized local historian with qualifications in historic preservation, architectural history, or history, one (1) shall be a licensed real estate broker, one shall be an alderman, one shall be a Plan Commission member, and two shall be citizen members with known interest in local history and historic preservation
    - b **Terms.** Terms shall be for staggered three (3) year periods
      - I **Chairman.** Chairman shall be appointed by the Mayor
      - II **Secretary.** Secretary shall be selected by the members
      - III **Official Oaths.** Official oaths shall be taken by all members in accordance with § 19 0 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment
      - IV **Vacancies.** Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term within one month of the occurrence of the vacancy

- 2 **Organization.** The Historic Preservation Commission shall organize and adopt rules for its own government in accordance with the provisions of this Section
  - a **Meetings.** Meetings shall be held at the call of the Chairman of the Historic Preservation Commission or when requested by the Common Council or City Plan Commission and shall be open to the public
  - b **Minutes.** Minutes shall be kept showing all actions taken and shall be a public record. The grounds for every decision shall be stated in the minutes
  - c **Quorum.** Quorum shall be four members, and all actions shall require the concurring vote of at least four members
- 3 **Powers.** The Historic Preservation Commission shall have the following powers
  - a **Designation.** The Historic Preservation Commission shall have the power to recommend the designation of landmarks, landmark sites and historic districts within the City to the City Plan Commission based upon criteria established in § 15-10 0405 of this Ordinance
  - b **Regulation of Construction, Reconstruction and Exterior Alteration.** No owner or person in charge of a landmark, landmark site, or structure within a historic district shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or cause or permit any such work to be performed upon such property unless a Certificate of Appropriateness has been granted by the City Plan Commission upon recommendation by the Historic Preservation Commission. Applications for a Certificate of Appropriateness shall be filed with the Historic Preservation Commission. Within thirty (30) days of Submission of the application, the Historic Preservation Commission shall make a recommendation to the City Plan Commission based upon the following determinations
    - I Whether, in the case of a designated landmark or landmark site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which said work is to be done, and
    - II Whether, in the case of the construction of a new improvement upon a landmark site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site, and
    - III Whether, in the case of any property located in a historic district designated pursuant to the criteria established in § 11 5, hereunder, the proposed construction, reconstruction or exterior alteration does not conform to the objectives and design criteria of the historic preservation plan for said district as duly adopted by the City Plan Commission
- 4 **Regulation of Demolition.** No person in charge of a landmark, or improvement in a historic district shall be granted a permit to demolish such property without review and recommendation by the Historic Preservation Commission to the City Plan Commission
- 5 **Recognition of Landmarks and Landmark Sites.** At such time as a landmark or landmark site has been properly designated in accordance with this Division, the Historic Preservation Commission may cause to be prepared and erected on such property, at City expense, a suitable plaque declaring that such property is a landmark or landmark site. Such plaque shall be so placed to be easily visible to passing pedestrians. In the case of a landmark, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the Historic Preservation Commission. In the case of a landmark site which is not the site of a landmark building, such plaque shall state the common name of the site, and such other information deemed appropriate by the Historic Preservation Commission
- 6 **Sale of Landmark Sites.** Any party who is listed as the owner of record of a landmark or landmark site at the time of its designation, who can demonstrate to the Historic Preservation Commission that by virtue of such designation he is

unable to find a buyer willing to preserve such landmark site, even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the Historic Preservation Commission to recommend to the City Plan Commission a rescission of its designation. Following the filing of such petition with the secretary of the Historic Preservation Commission

- a The owner and the Historic Preservation Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation
- b If, at the end of a period not exceeding six months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the Historic Preservation Commission shall recommend to the City Plan Commission to rescind its designation of the subject property
- c In the event such rescission, the Historic Preservation Commission shall notify the City Clerk, the Director of Inspection Services and the City Assessor of same, and shall cause the same to be recorded, at the City's expense, in the office of the Milwaukee County Register of Deeds
- d Following any such rescission, the Historic Preservation Commission may not recommend to redesignate the subject property a landmark or landmark site for a period of not less than five years following the date of rescission

7 **Other Duties of the Historic Preservation Commission.** In addition to those duties already specified in this section, the Historic Preservation Commission shall

- a Actively work for the passage of enabling legislation which would permit the granting of full or partial tax exemptions to properties it has designated under the provisions of this section in order to encourage landmark owners to assist in carrying out the provisions of this Ordinance
  - I Cooperate with the State of Wisconsin Historic Preservation Officer and the State Historic Preservation Review Board in attempting to include such properties designated as landmarks or landmark sites, or historic districts on the National Register of Historic Places
- b Work for the continuing education of the citizens about the historic heritage of the City of Franklin and the landmarks and landmark sites
- c As it deems advisable, receive, and solicit funds for the purpose of landmarks preservation in the City. Such funds shall be placed in a special City account for such purpose

C **Landmark, Landmark Site, and Historic District Designation Criteria.**

- 1 **Landmark or Landmark Site Designation.** For the purposes of this Ordinance, a landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the City of Franklin, such as historic structures or sites which
  - a Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state or community, or
  - b Are identified with historic personages or with important events in national, state or local history, or
  - c Embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or
  - d Are representative of the notable work of a master builder, designer or architect whose individual genius influenced his age

- 2 **Historic Preservation Commission Operating Guidelines.** The Historic Preservation Commission may adopt specific operating guidelines for landmark and landmark sites designation providing such are in conformance with the provisions of this paragraph

**D Procedures.**

- 1 **Designation of Landmarks, Landmark Sites and Historic Districts.**

- a The Historic Preservation Commission may, after notice and public hearing, recommend to the City Plan Commission establishment of landmarks, landmark sites and historic districts, after application of the criteria in § 15-10 0405 of this Ordinance
- b At least ten (10) days prior to such hearing, the Historic Preservation Commission shall notify the owners of property in whole or in part situated within two-hundred (200) feet of the boundaries of the property affected These owners shall have the right to confer with the Historic Preservation Commission prior to its recommendation to the Plan Commission on the designation
- c Notice of such hearing shall also be published as provided in Division 15-9 0200 and § 15-10 0406(D) of this Ordinance
- d The Historic Preservation Commission shall also notify the City Planning and Zoning Administrator, Engineering Department, the Department of Public Works, Park Commission, Fire and Police Departments, City Director of Inspection Services, and City Plan Commission Each such department shall respond to the Historic Preservation Commission within thirty (30) days of notification with its comments on the proposed designation or rescission
- e The Historic Preservation Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary The Historic Preservation Commission may conduct an independent investigation into the proposed designation or rescission
- f Within ten (10) days after the close of the public hearing, the Historic Preservation Commission may recommend designation of the property as either a landmark, a landmark site, or its inclusion in an historic district to the Plan Commission or recommend to the Plan Commission to rescind the designation
- g After the recommendation has been made, notification shall be sent to the property owner or owners and to the persons who appeared at the public hearing Notification shall also be given to the City Clerk, Director of Inspection Services, and the City Assessor The Historic Preservation Commission shall cause the City Plan Commission approved designation or rescission to be recorded, at City expense, in the Milwaukee County Register of Deeds office

- 2 **Voluntary Restrictive Covenants** The owner of any landmark or landmark site may, at any time following such designation of his property, enter into a restrictive covenant on the subject property after negotiation with the Historic Preservation Commission The Historic Preservation Commission may assist the owner in preparing such covenant in the interest of preserving the landmark or landmark site and the owner shall cause to be recorded such covenant in the Milwaukee County Register of Deeds office and shall notify the City Assessor of such covenant and the conditions thereof

- 3 **Creation of a Historic District.** For preservation purposes, the Historic Preservation Commission may recommend to the City Plan Commission that certain geographically defined areas within the City of Franklin be designated as historic districts under the provisions as outlined in this Division of this Ordinance A historic district may be recommended by the Historic Preservation Commission for designation by the City Plan Commission which meets those criteria set forth in § 15-10 0405 of this Ordinance Each historic district recommended by the Historic Preservation Commission shall be supported by a Historic Preservation Plan for the district which plan shall include a cultural and architectural analysis supporting the historic significance of the area, specific guidelines for the development of the district and a statement of preservation objectives

**E Compliance.**

- 1 **General.** Every person in charge of any landmark, landmark site or improvement in a historic district shall maintain same or cause to permit it to be maintained in a condition consistent with the provision of this Section Insofar as they are applicable to a landmark, landmark site or improvement in a historic district, designated under this Division of this Ordinance, any provision of the Plumbing Code, the Minimum Housing and Property Maintenance Code, Building Code, Heating, Ventilating and Air Conditioning Code, may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the Director of Inspection Servicesr, provided such variance or waiver does not endanger public health or safety
- 2 **Government Order.** Nothing contained in this Division of this Ordinance shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic district pursuant to order of any governmental agency or pursuant to any court judgement, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property In such cases, no approval from the Historic Preservation Commission or City Plan Commission shall be required

**15-9-03. Administrative Procedures**

**A Zoning Compliance Permit.**

- 1 **Purpose and Applicability.** In all zoning districts a zoning compliance permit shall be required for any new use or change of use of a building, structure, or land not involving the construction of new buildings or structures, alteration of existing buildings or structures, or other exterior changes to the City Any use necessitating construction of a new building or structure, addition, accessory structure or any other similar expansion of the use on the site, such as additional parking spaces, except single family and duplex development shall comply with Site Plan Review of this Ordinance
- 2 **Zoning Administrator Review and Action**
  - a The Zoning Administrator shall review the zoning compliance permit application to determine whether it conforms to all applicable provisions of this UDO
  - b Based upon their review the Zoning Administrator shall
    - I Issue the Zoning Compliance Permit,
    - II Issue the Zoning Compliance Permit with conditions,
    - III Refer the zoning compliance permit application to the Plan Commission for review and approval, or
    - IV Deny the Zoning Compliance Permit
- 3 **Expiration and Lapse of Approval.** A Zoning Compliance Permit shall expire if within six (6) months of the date of issuance of a Zoning Compliance Permit the use has not commenced or that the use has not occupied the structure or location Upon the showing of a valid cause by the applicant, the Zoning Administrator may grant an extension of such Zoning Compliance Permit for a period not to exceed six (6) months
- 4 **Enforcement** Failure to comply with this Section relating to Zoning Compliance Permits may be enforced pursuant to this Ordinance, or any other provision of law including, but not limited to, revocation of the Zoning Compliance Permit, injunction, or other civil suit

**B Site Plan Review.**

- 1 **Purpose and Applicability.** Site Plan Review is required prior to the issuance of a Certificate of Occupancy to certify compliance with all applicable provisions of this UDO Site Plan Review shall be required for any development involving construction of a new building, accessory structure, or any other similar expansion such as the construction of

additional impervious area or parking spaces Single-family and duplex residential development shall be exempt from site plan review and shall only require a Zoning Compliance Permit as specified in Section ###-###

2 Standards of Review.

- a **Conformity of Use to Zoning District.** The proposed use(s) conform(s) to the uses permitted as a Permitted Use in the zoning district
- b **Dimensional Requirements.** The dimensional arrangement of buildings and structures conform to the required area, yard, setback, and height restrictions of the UDO
- c **Use and Design Provisions.** The proposed use conforms to all use and design provisions and requirements (if any) as found in this Ordinance for the specified uses
- d **Relation to Existing and Proposed Streets and Highways.** There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project to assure the safety and convenience of pedestrian and vehicular traffic In the case of arterial streets and highways not under the jurisdiction of the City of Franklin, that the applicable highway authority (County, State, or Federal) has been contacted and the needed permits have been obtained and submitted to the City for review
- e **Impact on Surrounding Uses.** The proposed on-site buildings, structures, and entry ways are situated and designed to minimize adverse effects upon owners and occupants of adjacent properties by providing for adequate design of ingress/egress, and interior/exterior traffic flow, stormwater drainage, erosion, grading lighting, and parking, as specified by this Ordinance or any other codes or laws
- f **Natural Resource Features Protection.** Natural features of the landscape are retained to enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood The requirements set forth in Divisions 15-4 0100, 15-7 0100, and 15-11 0100 are to be met Where required, a "Natural Resource Protection Plan" meeting the requirements set forth in Division 15-7 0100 has also been submitted for Plan Commission review and approval
- g **Required Landscaping and Landscape Bufferyards.** Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by design and installation of landscape bufferyards to provide for appropriate screening, fencing, or landscaping as required in Division 15-5 0300 of this Ordinance Where required, a Landscape Plan meeting the requirements set forth in Division 15-5 0300 has also been submitted for Plan Commission review and approval
- h **Provision of Emergency Vehicle Accessibility.** Land, buildings, and structures are readily accessible to emergency vehicles and persons with physical disabilities
- i **Building Location.** No building shall be permitted to be sited in a manner which would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties
- j **Location and Design of On-Site Waste Disposal and Loading Facilities.** No on-site waste disposal and/or loading facility shall be permitted to be designed or sited in a manner which would substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of the existing structures on adjoining properties
- k **Consistency with the Intent of the Unified Development Ordinance.** The Site Plan is consistent with the intent and purposes of the UDO as established in Section ###-### and governing zoning district in Section ###-###



- l **Consistency with the Intent of the Comprehensive Master Plan.** The Site Plan is consistent with the public goals, objectives, principles, standards, policies, and urban design criteria set forth in the City-adopted Comprehensive Master Plan or component thereof
  - m **Plan Commission Reserves the Right to Determine a Site Unsuitable for Planned Use.** The Plan Commission reserves the right to declare land or structures unsuitable for planned use when Plan Commission review occurs during the site plan review process
- 3 **Zoning Administrator Review and Action**
- a The Zoning Administrator shall review the site plan review application to determine whether it conforms to all applicable provisions of this UDO
  - b Based upon their review the Zoning Administrator shall
    - I Approve the site plan,
    - II Approve the site plan with conditions, or
    - III Deny the site plan
- IV. **Plan Commission Referral.**
- i For any proposed development that results in a change or addition of one-hundred thousand (100,000) square feet or more, the Zoning Administrator to the Plan Commission for review
  - ii The Plan Commission shall then review and approve the site plan, approve the site plan with conditions, or deny the Site Plan in accordance with the standards of Section ###-### above
- 4 **Expiration and Lapse of Approval** Except in the case of an approved Planned Unit Development, no site plan approval shall be valid for a period longer than two (2) years unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Zoning Compliance Permit, Conditional Use Permit, or Occupancy Permit is issued and a use commences within that period
- 5 **Site Plan Amendments.**
- a **Determination of Level of Change.** Upon receiving a Site Plan amendment application, the Zoning Administrator shall determine whether the amendment is a minor amendment, or a major amendment based on the criteria detailed in Section ###-### below
  - b **Process.** Any minor amendment (as set forth herein) to an approved Site Plan may be submitted to the Zoning Administrator for administrative approval
  - c **Major Amendment.** A major amendment is an amendment which results in one (1) of the following
    - I A change of five (5) percent or more of the structures' floor area
    - II An increase in the off street parking located on site
    - III Significant change in architectural styles, colors or building materials that are inconsistent with the approved Site Plan,
  - d **Minor Amendment.** A Minor Site Plan amendment is any change that does not qualify as a major site plan amendment per Section ###-### above
  - e **Approval Process.** A major amendment to an approved Site Plan shall follow the Site Plan Review procedure in Section ###-### A minor amendment to an approved Site Plan may be approved by the Zoning Administrator

C Temporary Use Permit

- 1 **Purpose** A Temporary Use Permit shall be required prior to the establishment of a temporary use per Section ###-##-### of this UDO to certify compliance with all applicable regulations of this UDO and the applicable sections of the building code as adopted by the City
- 2 **Temporary Use Permit Review Criteria** To approve the issuance of a Temporary Use Permit, the Zoning Administrator shall make an affirmative finding that all applicable provisions of this UDO, the applicable building code, and all other City ordinances are met
- 3 **Zoning Administrator Action.** The application shall be reviewed by the Zoning Administrator to ensure the application conforms to the criteria in Subsection 2 above. Based upon their review, the Zoning Administrator shall
  - a Issue the Temporary Use Permit,
  - b Issue the Temporary Use Permit with conditions, or
  - c Deny the Temporary Use Permit

D Sign Permit

- 1 **Purpose** A Sign Permit shall be required prior to the display, construction, erection, or alteration of a sign and its structural components on any property. All signs must comply with Article 6, and the applicable sections of the building code as adopted by the City. All electrical installations associated with the erection and installation of a sign must be done in accordance with the adopted Building and Electrical Codes
- 2 **Exemptions** Signs exempt from a permit are detailed in Section ###-##-###
- 3 **Sign Permit Review Criteria** To approve the issuance of a Sign Permit, the Zoning Administrator shall make an affirmative finding that all applicable provisions of this UDO, the applicable building code, and all other City ordinances are met
- 4 **Zoning Administrator Action.** The application shall be reviewed by the Zoning Administrator to ensure the application conforms to the criteria in Subsection 3 above. Based upon their review, the Zoning Administrator shall
  - a Issue the Sign Permit,
  - b Issue the Sign Permit with conditions, or
  - c Deny the Sign Permit
- 5 **Expiration and Lapse of Approval** A Sign Permit shall become void, if work authorized under the permit has not been completed within six (6) months of the date of issuance

E Interpretations

- 1 **Purpose**
  - a The interpretation authority established by this section is intended to recognize that the provisions of this UDO, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied
  - b The Zoning Administrator may issue Interpretations of the provisions of this UDO to clarify the standards or requirements as they relate to a particular type of development on a particular property
  - c The interpretation authority established herein is not intended to add or change the essential content of this UDO but is intended only to allow authoritative application of that content to specific cases

- 2 **Request.** The Zoning Administrator may issue an Interpretation at the written request of a petitioner who is proposing to take action requiring the issuance of a permit or certificate. The request for an Interpretation shall set forth the facts and circumstances, a description of the proposed development, and the precise interpretation claimed by the applicant to be correct.
- 3 **Content of Letter.** The Interpretation does not itself authorize the establishment of a use but provides guidance for any approvals or permits required by this UDO, and the Interpretation shall be advisory in nature and shall not be binding upon the Plan Commission or the Common Council in their functions under this UDO. The Interpretation shall specify the facts, reasons, analysis, and standards upon which the Interpretation is based.
- 4 **Records.** A record of all Interpretations shall be kept on file in the Zoning Administrator's office.

F **Certificate of Occupancy.**

- 1 **Certificate of Occupancy Required.** A Certificate of Occupancy to be issued by the Director of Inspection Services or his/her designee shall be required for any of the following, except buildings incidental to agricultural operations other than residences:
  - a Occupancy and use of a building hereafter erected or enlarged
  - b Change in use of an existing building
  - c Any change in the use of a nonconforming use
- 2 **No Occupancy, Use, or Change of Use Shall Take Place.** No such occupancy, use, or change of use shall take place until a Certificate of Occupancy has been issued.
- 3 **Undeveloped Land Within Floodplain Districts.**
  - a No undeveloped land within the floodplain districts shall be occupied, developed, or used, and no structure hereafter erected, altered, substantially improved, or moved shall be occupied until the applicant submits to the Zoning Administrator a certification by a Wisconsin registered professional engineer or land surveyor that the floodplain regulations set forth in this ordinance have been fully complied with. Such certification shall include the first-floor elevation of any structure on the site.
  - b Pending the issuance of such certificate, a temporary Certificate of Occupancy may be issued by the Zoning Administrator for a period of not more than six (6) months during the completion of the construction of the building or of alterations which are required under the terms of any law or ordinance. Such temporary certificate may be renewed, but it shall not be construed in any way to alter the respective rights, duties, or obligations of the owner or the City relating to the use or occupancy of the land or building, or any other matter covered by this ordinance, and such temporary Certificate of Occupancy shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants.
- 4 **Application for a Certificate of Occupancy.** Written application for a Certificate of Occupancy for the use of vacant land, or for a change in a nonconforming use, as herein provided, shall be made to the Director of Inspection Services.
- 5 **Issuance of a Certificate of Occupancy.** If the proposed use is in conformity with the provisions of this ordinance, the certificate of occupancy shall be issued within three working days after the application for the same has been made, only after the occupancy conforms to this Ordinance and other applicable City Codes, and any lack of conformance to this Ordinance or other codes are corrected.
- 6 **Form of Certificate of Occupancy and Permanent Record.** Each Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the office of Inspection Services and a copy shall be forwarded, on request, to any person having proprietary or tenancy interests in the building or land affected.

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- 7 **Certificate of Occupancy Not Required for Gas and Electric Utility Uses Issued a Certificate of Public Convenience and Necessity.** No Certificate of Occupancy shall be required for gas and electric utility uses which have been issued a Certificate of Public Convenience and Necessity pursuant to § 196.491 of the Wisconsin Statutes as amended

**15-9-04. Board/Commission General Review and Action Procedures**

- A **Summary of Board/Commission Review and Approval Procedures.** Table ##-##-## summarizes the Board and Commission Review and Approval procedures and identifies the appropriate boards or commissions that serve as recommending or decision-making bodies

**Table 15-9-04(A): Summary of Board/Commission Review and Approval Procedures**

<b>Petition Review Procedure</b>	<b>Plan Commission</b>	<b>Common Council</b>	<b>Board of Zoning and Building Appeals</b>
Conditional Use Permit	R*	D	
Major Conditional Use Permit Amendment	R*	D	
Varance			D*
Text Amendment	R*	D	
Map Amendment	R*	D	
Comprehensive Master Plan Future Land Use Amendment	R*	D	
Appeal			D*
Minor Land Division	R/D	D	
Land Combination	R		
Subdivision	R	D	
Planned Unit Development	R*	D	
Major Planned Unit Development Amendment	R*	D	
<b>Key</b>			
R = Recommending Body			
D = Decision Making Body			
* = Public Notice Required			

- B Notice Requirements.** Table ###-##-### summarizes the required method for each type of required notice. All notices shall be made in compliance with Chapter 985 of the Wisconsin Statutes. Require written notice shall be delivered by regular mail to all owners of properties or portions of properties within five hundred (500) feet of the lands described in the application, mailed not less than ten (10) days prior to the hearing.

Procedure	Published Notice		Written Notice
	Class 1	Class 2	
Conditional Use Permit		•	•
Major Conditional Use Permit Amendment		•	•
Variance	•		•
Text Amendment		•	
Map Amendment		•	•
Appeal	•		
Planned Unit Development (1)		•	•
Major Planned Unit Development Amendment (1)		•	•
<b>Key</b>			
• = Required form of notice			
<b>Notes</b>			
(1) Process specified in Article 10 Planned Development Standards and Procedures			

- C Recording of Documents.** Recording of documents as required by the City in instances of subdivision, consolidation, amendment, or Planned Unit Development or otherwise required by state statutes, shall be completed by the Zoning Administrator in a timely manner and at the expense of the applicant. Notice of all fees shall be furnished to the applicant by the Zoning Administrator and paid prior to the recording of documents.

**15-9-05. Conditional Uses**

- A General.** It is recognized that there are uses which, because of their unique characteristics, cannot be properly classified in any particular zoning district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such conditional uses fall into two categories:
1. Uses publicly operated or traditionally affected with a public interest.
  2. Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- B Initiation of Conditional Uses.** Any person owning or having an interest in the subject property may file an application to use such land for one or more of the conditional uses provided for in this UDO and in the zoning district in which the land is situated.
- C Application for Conditional Uses.** A conditional use application for a conditional use, or for the expansion of an existing conditional use, shall be filed with the Zoning Administrator or designee on an application form prescribed by the Zoning Administrator.
- D Notice Required.**
1. At least ten (10) days in advance of the Plan Commission hearing, but not more than thirty (30) days, a Class 2 notice as specified in Chapter 985 of the Wisconsin Statutes specifying the time and place of such hearing shall be published in a newspaper of general circulation in the City of Franklin.

- 2 Written notice of the public hearing shall also be delivered by regular mail to all owners of properties or portions of properties within five hundred (500) feet of the lands described in the application, mailed not less than ten (10) days prior to the hearing, with the ownership to be determined by the records on file in the Office of the City Assessor; notice to one of joint or in-common owners being notice of all
  - 3 The Common Council shall request a review of each such special use in the floodplain districts by the Wisconsin Department of Natural Resources (DNR) Final action on floodplain applications shall not be taken for at least thirty (30) days or until DNR has made its recommendations, whichever comes first A copy of all decisions relating to conditional uses in the floodplain districts shall be transmitted to DNR within ten (10) days of the effective date of such decision
- E **Plan Commission Hearing.** Upon receipt in proper form of the application and statement referred to above, the Plan Commission shall hold at least one (1) public hearing At the close of the public hearing the Plan Commission shall recommend to Common Council to
- 1 Approve the Conditional Use Permit,
  - 2 Approve the Conditional Use Permit with conditions, or
  - 3 Deny the Conditional Use Permit
- F **Common Council Action.** For each application for a conditional use, the Plan Commission shall report to the Common Council its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest The Common Council shall
- 1 Approve the Conditional Use Permit,
  - 2 Approve the Conditional Use Permit with conditions, or
  - 3 Deny the Conditional Use Permit
- G **Protest Petition.** In the event of written protest against any proposed conditional use, duly signed and acknowledged by the owners of twenty (20) percent or more either of the areas of the land included in such proposed amendment, or by the owners of twenty (20) percent or more of the area of the land immediately adjacent extending one-hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one-hundred (100) feet from the street frontage of such opposite land, such conditional use shall not be granted except by the favorable vote of three-quarters (3/4) of all the members of the Common Council
- H **General Standards For Conditional Uses.** In considering an application for a conditional use permit the Plan Commission and Common Council shall review the responses by the applicant to the standards set forth below
- 1 **Ordinance and Comprehensive Master Plan Purposes and Intent.** The proposed use and development will be in harmony with the general and specific purposes for which this UDO was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of Franklin Comprehensive Master Plan or element thereof
  - 2 **No Undue Adverse Impact.** The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and not substantially diminish and impair property values within the community or neighborhood
  - 3 **Compatibility With Surrounding Development.** The proposed use and development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations

- 4 **Adequate Public Facilities.** The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities or the applicant will provide adequately for such facilities
  - 5 **Adequate Circulation.** The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets
  - 6 **No Destruction of Significant Features.** The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance This criterion shall be deemed to have been met with respect to natural features upon approval of a Natural Resource Protection Plan for the proposed use
- I **Effect of Denial of a Conditional Use.** No application for a conditional use which has been denied wholly or in part by the Common Council shall be resubmitted for a period of one-hundred eighty (180) days from the date of said order of denial
- J **Revocation.** In any case where a conditional use has not been established within one (1) year after the date of granting thereof, then without further action by the Plan Commission or the Common Council, the conditional use authorization shall be null and void The criteria for determining establishment of a conditional use may be set forth by the Common Council in the approving conditional Use Resolution
- K **Amendments to Approved Conditional Uses.**
- 1 **Determination of Level of Change.** Upon receiving a Conditional Use amendment application, the Zoning Administrator shall determine whether the amendment is a minor amendment, or a major amendment based on the criteria detailed in Section ###-### and Section ###-### below
    - a **Major Amendment.** A major amendment is any proposed change to an approved Conditional Use that results in one or more of the following
      - I Increase in the intensity of the site's use, including
        - I A five (5) percent increase in impervious surface or modification to the approved stormwater management plan
        - II Request for hours of operation before 8 am or after 6 pm
        - III Additional noise, glare, odor, or other impacts that are detectable from off-site
    - b **Minor Amendment.** A minor amendment is any proposed change to an approved Conditional Use that is consistent with the standards and conditions upon which the Conditional Use was approved, which does not alter the concept or intent of the Conditional Use, and which is not considered a major amendment as detailed in Section ###-###
    - c **Approval Process.** A major amendment to an approved Conditional Use shall follow the procedure for a Conditional Use approval set in Section ###-### A minor amendment to an approved Conditional Use may be approved by the Zoning Administrator

#### 15-9-06. Variance

- A **Purpose.** The Variance process is designed to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships A Variance may be granted for practical difficulties or particular hardships resulting from the strict application of the regulations of this Ordinance

- B Applicants Receiving Variances in Floodplains.** Pursuant to Federal regulations set forth in 44 CFR Part 60 6(5), applicants receiving variances in floodplains shall be notified, in writing, by the Board of Zoning and Building Appeals that increased flood insurance premiums and increased threat to life and property may result from the granting of the variance. The Board shall keep a record of the notification in its files.
- C Variance Review Criteria.** In determining whether a Variance should be granted, the Board of Zoning and Building Appeals must consider whether the practical difficulty or unnecessary hardship claimed by the applicant was created by the applicant and take into account the nature of the hardship. No Variance shall be granted unless the Board of Zoning and Building Appeals makes all the following findings:
- 1 The application of the ordinance to the particular piece of property would create an unnecessary hardship,
  - 2 Such conditions are peculiar to the particular piece of property involved,
  - 3 Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive master plan, and
  - 4 The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.
- D Hearing on Application.**
- 1 Upon receipt of an eligible application for an area exception, the Board of Zoning and Building Appeals shall hold a public hearing on the application. Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice, pursuant to Ch. 985 of the Wisconsin Statutes.
  - 2 The time, place and purpose of such hearing shall also be delivered by regular mail to the applicant and to all owners of properties or portions of properties within five-hundred (500) feet of the lands described in the application, mailed not less than ten (10) days prior to the hearing, with the ownership to be determined by the records on file in the Office of the City Assessor, notice to one of joint or in-common owners being notice to all.
- E Board of Zoning and Building Appeals Hearing and Action.** The Board of Zoning and Building Appeals shall review the application for a Variation, hold a public hearing, and after consideration of the recommendation of the Zoning Administrator, recommendation of the Zoning Administrator and public comment received either:
- 1 Approve the Variation,
  - 2 Approve the Variation with conditions, or
  - 3 Deny the Variation.
- F Effect of Denial.** No application for a variation shall be filed by property owner which is identical or substantially similar to the requested variation which has been denied within one (1) year of the date of the denial.

### 15-9-07. Map Amendments

- A Purpose.** The Zoning Map may be amended from time to time by ordinance, in accordance with the state statute. The amendment process is intended to adjust this UDO in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.
- B Map Amendment Review Criteria.** The following review criteria shall be considered in the review and action on Map Amendment applications:
- 1 The proposed map amendment is consistent with the City of Franklin Comprehensive Master Plan and other adopted policies of the City.
  - 2 Major land uses, conditions or circumstances have changed since the UDO was adopted or amended.



- 3 Sites do not exist for the proposed use in existing districts permitting such use
- 4 The requested map amendment is compatible with the existing uses, development patterns and zoning of nearby properties
- 5 The present development of the area complies with existing ordinances
- 6 The existing zoning imposes an unreasonable hardship and a reasonable economic benefit cannot be realized from uses permitted by the existing zoning
- 7 The proposed map amendment does not conflict with existing or planned public improvements or will not adversely impact schools, parks or other public facilities
- 8 The natural environment or traffic patterns in the vicinity will not be adversely affected in a manner inconsistent with the planned character of the area
- 9 The proposed map amendment is not detrimental to the health, safety and welfare of the neighborhood or of the City as a whole

**C Hearing and Notice Required**

- 1 The Plan Commission shall hold a public hearing upon each proposed change or amendment giving notice of the time and place of such hearing by publication in the City of a Class 2 notice under Chapter 985 of the Wisconsin Statutes
- 2 Written notice of the public hearing shall also be delivered by regular mail to all owners of properties or portions of properties within five hundred (500) feet of the lands described in the application, mailed not less than ten (10) days prior to the hearing, with the ownership to be determined by the records on file in the Office of the City Assessor, notice to one of joint or in-common owners being notice to all
- 3 At least ten (10) days prior written notice shall be given to the clerk of any municipality within one-thousand (1,000) feet of any land to be affected by the proposed change or amendments. Due notice of all public hearings on petitions for changes to the floodplain districts or amendment to the regulations affecting the floodplain districts shall be transmitted to the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA)
- 4 Amendments to the floodplain district boundaries or regulations shall not become effective until approved by the DNR and the FEMA. In the case of floodplain district boundary changes, an official letter of map amendment from the FEMA shall also be required and the provisions set forth in § 15-9 0207 of this Division shall be followed. Only statutorily required notice is to be given for text amendment applications, written and mailed notice to owners of properties is not required for the hearing upon an application for a text amendment

**D Plan Commission Hearing and Recommendation** The Plan Commission shall hold a public hearing and at the close of the public hearing and after consideration of the recommendation of the Zoning Administrator and public comment received, either recommend to the Common Council

- 1 Approve of the Map Amendment, or
- 2 Deny of the Map Amendment

**E Common Council Action** The Common Council shall review the application for the map amendment and after consideration of the recommendation of the Plan Commission, recommendation of the Zoning Administrator, and public comment received either

- 1 Approve the Map Amendment, or
- 2 Deny the Map Amendment

### 15-9-08. Text Amendments

- A **Purpose** The regulations imposed and the districts created by this UDO may be amended from time to time by ordinance, in accordance with the state statute. The amendment process is intended to adjust this UDO in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.
- B **Text Amendment Review Criteria** The following review criteria shall be considered in the review and action on Text Amendment applications
- 1 The proposed text amendment is consistent with the City of Franklin Comprehensive Master Plan and other adopted policies of the City
  - 2 The proposed text amendment addresses a particular issue or concern for the City
  - 3 The proposed text amendment does not impose an unreasonable hardship on existing uses
  - 4 Major land uses, conditions, or circumstances have changed since the UDO was adopted or amended
  - 5 The requested amendment is compatible with the existing uses and development patterns of the City
  - 6 The proposed amendments is not detrimental to the health, safety and welfare of the neighborhood or of the City as a whole
- C **Hearing and Notice Required**
- 1 The Plan Commission shall hold a public hearing upon each proposed change or amendment giving notice of the time and place of such hearing by publication in the City of a Class 2 notice under Chapter 985 of the Wisconsin Statutes
  - 2 Amendments to the floodplain district boundaries or regulations shall not become effective until approved by the DNR and the FEMA. In the case of floodplain district boundary changes, an official letter of map amendment from the FEMA shall also be required and the provisions set forth in § 15-9 0207 of this Division shall be followed. Only statutorily required notice is to be given for text amendment applications, written and mailed notice to owners of properties is not required for the hearing upon an application for a text amendment
- D **Plan Commission Hearing and Recommendation** The Plan Commission shall hold a public hearing and at the close of the public hearing and after consideration of the recommendation of the Zoning Administrator and public comment received, either recommend to the Common Council
- 1 Approve of the Text Amendment, or
  - 2 Deny of the Text Amendment
- E **Common Council Action** The Common Council shall review the application for the text amendment and after consideration of the recommendation of the Plan Commission, recommendation of the Zoning Administrator, and public comment received either
- 1 Approve the Text Amendment, or
  - 2 Deny the Text Amendment

### 15-9-09. Comprehensive Plan Future Land Use Map Amendment

- A Amendments to the future land use map in the City of Franklin Comprehensive Master Plan shall follow the process established in the Comprehensive Master Plan

### 15-9-10. Appeal

- A **Purpose.** An appeal may be taken to the Zoning Board of Appeals for any order, requirement, decision, interpretation or determination of the regulations of this title made by the Zoning Administrator, by any individual aggrieved by the action taken under The Board of Zoning and Building Appeals shall hear the Appeal, hold a public meeting, and render a decision
- B **Initiation.** An Appeal may be taken within thirty (30) days of the action of the Zoning Administrator by filing a notice of Appeal specifying the grounds thereof, who shall forward such Appeal to the Board of Zoning and Building Appeals
- C **Board of Zoning and Building Appeals Hearing and Action.** A public hearing shall be conducted by the Board of Zoning and Building Appeals for each Appeal The Board of Zoning and Building Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination relating to this title, made by the Zoning Administrator subject to the criteria in Section ###-###
- G **Notice Required.** Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice, pursuant to Ch 985, Wis Stats, said time, place and purpose of such hearing shall also be delivered by regular mail to the applicant and to all owners of properties or portions of properties within five-hundred (500) feet of the lands described in the application, mailed not less than ten (10) days prior to the hearing, with the ownership to be determined by the records on file in the Office of the City Assessor, notice to one of joint or in-common owners being notice to all
- D **Appeal Review Criteria.** An Appeal of administrative decisions shall be granted only if the Plan Commission makes one of the following findings
  - 1 The decision constituted an erroneous application or interpretation of this UDO
  - 2 The decision constituted an abuse of the administrative official's discretion to interpret or apply this UDO
  - 3 The decision was rendered based upon an erroneous material fact.
- E **Record of Action.** The Plan Commission's decision shall be filed and recorded with the City Clerk

### 15-9-11. Subdivision Procedures

- A **Minor Land Division.**
  - 1 **Applicability.** When it is proposed to divide land into at least two (2) but not more than four (4) parcels or building sites, or when it is proposed to create by land division not more than four (4) parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of a block, lot, or outlot the Subdivider shall subdivide by use of a certified survey map The certified survey map shall include all parcels of land in any size
  - 2 **Filing of a Certified Survey Map.** The Subdivider shall prepare the certified survey map in accordance with Division 15-7 0700 of this Ordinance
    - a The Subdivider shall file at least thirty (30) copies of the certified survey map, Natural Resource Protection Plan if required, Landscape Plan for any landscape bufferyard easement areas as required in Section ###-###, and the application with the Zoning Administrator, or their designee at least fifteen (15) days prior to the meeting of the Plan Commission at which action is desired One (1) original copy of the Certified Survey Map shall be submitted
    - b The Zoning Administrator shall, within two (2) working days after filing, transmit copies of the map and application along with a cover letter to all approving authorities including extraterritorial plat review agencies if not waived in writing
    - c The Zoning Administrator, within two (2) work days after filing, transmit the certified survey map, natural resource protection plan, landscape plan, and application

- d The applicant shall be responsible for transmitting copies of the certified survey map to all affected utilities for their respective review and comments
  - e The recommendations of all approving authorities shall be transmitted to the Plan Commission within twenty (20) days from the date the map is filed with the Zoning Administrator, or prior to the next available meeting
- 3 **Plan Commission Review and Action or Recommendation.**
- a The Certified Survey Map shall be reviewed by the Plan Commission for conformance with this Ordinance and all other ordinances, rules, regulations, adopted regional, County, or City of Franklin Comprehensive Master Plans or adopted plan components
  - b For all Minor Land Divisions that do not involve the dedication of land or public improvements, the Plan Commission shall within sixty (60) days from the date of filing of the certified survey map either
    - I Approve,
    - II Conditionally approve, or
    - III Deny of the map
  - c For all Minor Land Divisions that do involve the dedication of land or public improvements, the Plan Commission shall within sixty (60) days from the date of filing of the Certified Survey Map make a recommendation to the Common Council to
    - I Approve,
    - II Conditionally approve, or
    - III Deny the map and shall transmit the map along with its recommendations to the Common Council
- 4 **Common Council Action.** In cases where a certified survey map has been transmitted by the Plan Commission to the Common Council, the Common Council shall approve, approve conditionally and thereby require resubmission of a corrected Certified Survey Map, or reject such Certified Survey Map within ninety (90) days from the date of filing of the map unless the time is extended by agreement with the Subdivider
- a If the map is approved, the Common Council shall cause the City Clerk to so certify on the face of the original map and return the map to the Subdivider
  - b If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the Subdivider
- 5 **Natural Resource Protection Plan Required.** For properties proposed to be divided by certified survey map, and that contain natural resource features as described in Divisions 15- 4 0100 and 15-11 0100 of this UDO, a Natural Resource Protection Plan, as described in Division 15-7 0200 of the UDO application manual , shall be submitted for review by the Zoning Administrator and Plan Commission
- 6 **Deed Restrictions, Conservation Easements, and Landscape Bufferyard Easements.** For properties proposed to be divided by Certified Survey Map and which contain natural resources required to be preserved or landscape bufferyard easements under the provisions of this Ordinance, the Plan Commission shall require that deed restrictions and/or conservation easements, and landscape bufferyard easements be filed with the Certified Survey Map or submitted for review as a condition of any approval thereof, in the manner and for the purposes as set forth under § 15-7 0603D for final plats
- 7 **Contract Required.** For Certified Survey Maps requiring the installation of public improvements, prior to installation of any required improvements and prior to approval of the Certified Survey Map, the Subdivider shall enter into a written contract (Development Agreement) with the City of Franklin requiring the Subdivider to furnish and construct said

improvements at Subdivider's sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction by the City of Franklin or its agent

8 **Recordation.**

- a All improvement requirements, specified by all approving agencies in matters over which they have jurisdiction, shall be met before recording the Certified Survey Map
- b The Subdivider shall record the map with the Milwaukee County Register of Deeds within twelve (12) months after the date of its last approval and within thirty-six (36) months after the date of its first approval

9 **Copies.** The Subdivider shall file at least thirty (30) copies of the Certified Survey Map and its accompanying Natural Resource Protection Plan with the City Clerk for distribution to the Plan Commission, various City departments, and other affected agencies for their files as set forth under § 15-9 0309(B)

B **Land Combination.**

1 **Application Transmittal to Plan Commission.** The City Clerk shall receive the application for a Land Combination, and after scheduling a review of the Application for a Land Combination Permit by the Plan Commission, shall refer the application and related data to the Zoning Administrator and City Engineer and other appropriate City departments for their review, study, and recommendations to the Plan Commission

2 **Plan Commission Review and Approval.**

- a The Plan Commission shall consider the Application for Land Combination Permit relative to City staff recommendations, the lot area and other dimensional requirements of the zoning district(s) within which the parcels are located, the City of Franklin Comprehensive Master Plan and planned land use districts for the parcels, present use of the parcels and proposed use of the parcels, for the purpose to ensure that upon combination, such properties shall comply with the purposes and provisions of this Ordinance
- b The Plan Commission shall consider these matters set forth under § 2 above and shall take one of the following actions with the Land Combination application
  - I Approve,
  - II Conditionally approve, or
  - III Deny the application
- c **Recordation.** If approved, the City Clerk shall record the resolution with the Milwaukee County Register of Deeds

C **Subdivisions.**

1 **Sketch Plan Required.** Prior to the filing of an application a Preliminary Plat, the subdivider shall be required to file an application for a "Sketch Plan Review" and to consult with all affected utilities, the City Planner, City Engineer, and affected City Departments to obtain their advice and assistance This consultation is mandatory and is intended to inform the Subdivider of the purpose and objectives of these regulations, the City of Franklin Comprehensive Master Plan, Comprehensive Master Plan components, duly adopted plan implementation devices of the City of Franklin, the availability of sanitary sewer, public water supply, stormwater management facilities, and site grading requirements, and to otherwise assist the Subdivider in planning the development In so doing, both the Subdivider and City of Franklin may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and surrounding area The Subdivider will gain a better understanding of the subsequent required procedures

2 **Sketch Plan Review.** The Sketch Plan shall be prepared in accordance with Section ###-### of the UDO application requirements manual, and the Subdivider shall file at least twenty (20) copies of the Sketch Plan and the application

with the City Clerk, or designee together with all necessary fees. Within thirty (30) days of the filing of a Sketch Plan application with the City Clerk, the City Planner, City Engineer, and all other affected City Departments shall review the Sketch Plan and conduct the Pre-Application Conference with the applicant. In addition:

- a **City Departments Review.** The City Clerk shall within three (3) days transmit a copy of the Sketch Plan Review Applications and Sketch Plan to all affected City Departments, the City Planner, the City Engineer, or Milwaukee County and affected local utilities for their review and recommendations concerning matters within their jurisdiction.
  - I The recommendations of the City Departments, City Planner, City Engineer and Milwaukee County and of affected local utilities shall be transmitted to the Plan Commission within twenty (20) days from the date the Sketch Plan Review Applications Sketch Plan are filed.
  - II The Sketch Plan Review Applications and Sketch Plan shall then be reviewed by the City Planner, City Engineer, and all other affected City Departments for general conformance with this Ordinance and all other ordinances, rules, regulations, adopted regional or county development, City of Franklin Comprehensive Master Plan or adopted components thereof which affect it.
- 3 **Preliminary Plat Review.** Before submitting a Final Plat for approval, the Subdivider shall prepare a Preliminary Plat and an application. The Preliminary Plat shall be prepared in accordance with Section ###-### of the UDO application requirements manual, and the Subdivider shall file at least thirty-five (35) copies of the Preliminary Plat, Natural Resource Protection Plan if required "Landscape Plan" for any landscape bufferyard easement areas and the application with the City Clerk, or designee together with all necessary fees at least twenty five (25) days prior to the meeting of the Plan Commission at which first consideration is desired. Said copies shall be in addition to those copies which may be required or requested by Milwaukee County or other agencies. In addition:
  - a **Copies of Preliminary Plat, Natural Resource Protection Plan, Landscape Plan, and Application to be Transmitted by City Clerk.** The City Clerk shall, within two (2) normal workdays after filing, transmit copies as required in the UDO application requirements manual.
- 4 **Copies of Preliminary Plat to be Transmitted by City Clerk to Affected City Commissions or Departments.** The City Clerk shall transmit a copy of the Preliminary Plat to all affected City Commissions or Departments for their review and recommendations concerning matters within their jurisdiction. The recommendations of City Commissions, Departments, City Planner, City Engineer, Milwaukee County, State agencies, and affected local utilities shall be transmitted to the Plan Commission within twenty (20) days from the date the plat is filed.
- 5 **Plan Commission Review and Recommendation.**
  - a **Plan Commission Review.** The Preliminary Plat including Natural Resource Protection Plan and Landscape Plan as applicable shall then be reviewed by the Plan Commission for conformance with this Ordinance and all other ordinances, rules, regulations, adopted regional or county development plans, City of Franklin Comprehensive Master Plan or adopted components thereof which affect it.
  - b **Plan Commission Recommendation to Common Council.** The Plan Commission shall within sixty (60) days of the date of the filing of a Preliminary Plat including Natural Resource Protection Plan and Landscape Plan as applicable with the City Clerk or other Common Council authorized agent, recommend to the Common Council approval, conditional approval, or denial of the Preliminary Plat and shall transmit the Preliminary Plat including Natural Resource Protection Plan and Landscape Plan as applicable and application, along with its recommendation, to the Common Council.
- 6 **Preliminary Plat Approval**
  - a **Notification by Objecting Agencies.** The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Preliminary Plat, notify the Subdivider and all other approving and objecting agencies of any objections.

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- I **Certification of No Objections Required.** If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the City Clerk
  - II **Failure of Objecting Agency to Act on Preliminary Plat.** If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objections to the Plat
  - b **Common Council Action.** The Common Council within ninety (90) days of the date of filing a Preliminary Plat with the City Clerk shall approve, approve conditionally, or deny such plat, unless the time is extended by agreement with the Subdivider
    - I **Notification to Subdivider of Common Council Action.** One (1) copy of the plat may thereupon be returned to the Subdivider with the date and action endorsed thereon, and if approved conditionally or denied, a letter setting forth the conditions of approval or the reasons for denial shall accompany the plat
    - II **Filing of Preliminary Plat in Common Council's Permanent File.** One (1) copy each of the plat and letter shall be placed in the Common Council's permanent file
  - c **Failure of Common Council to Act.** Failure of the Common Council to act within ninety (90) days of the date of filing, or within the time extended by agreement with the Subdivider, shall constitute an approval
  - d **Approval or Conditional Approval of a Preliminary Plat.** Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat unless the Final Plat is submitted within thirty-six (36) months after the last required approval of the Preliminary Plat or within an extended time frame specified by a conditional approval and the Final Plat conforms substantially to the Preliminary Plat as approved, including any conditions of that approval, and to City of Franklin plans and ordinances adopted as authorized by law
- D **Final Plat Review.**
- 1 **Designation of Approving Authorities.** The Common Council, the town wherein the plat is located in the case of a plat located within the extraterritorial plat jurisdiction of the City of Franklin, and each adjoining city or village in whose extraterritorial plat approval jurisdiction the subdivision lies pursuant to § 236 10(1)(b) of the Wisconsin Statutes are designated approving authorities
  - 2 **Designation of Objecting Agencies.** The Wisconsin Department of Agriculture, Trade and Consumer Protection, the Wisconsin Department of Industry, Labor and Human Relations, Wisconsin Department of Transportation, and county planning agency as defined by § 236 02(a) of the Wisconsin Statutes shall be hereinafter referred to as objecting agencies
  - 3 **Final Plat and Application Submittal.** The Subdivider shall prepare a Final Plat and an application in accordance with Section ###-### of the UDO application requirements manual and shall file an adequate number of copies of the Final Plat and the application as set forth below
    - a **Submittal of Final Plat to the Wisconsin Department of Administration.** Before any approvals of the Final Plat are made, the Subdivider or Subdivider's agent shall submit the original Final Plat to the Wisconsin Department of Administration
      - I Two (2) copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a State Trunk Highway or a connecting street,
      - II Two (2) copies to the Wisconsin Department of Natural Resources if shorelands are contained within the proposed subdivision
    - b **Submittal of Final Plat to the City Clerk.** After approval by required State Departments, the Subdivider shall file at least thirty (30) copies of the Final Plat and an application with the City Clerk, or designees along with the proper fees as established in the City of Franklin fee schedule, and the receipt of the proper filing fees of each of the other approving authorities and objecting agencies

- c **City Clerk Transmittal of Final Plat.** The City Clerk shall, within two working days after the filing by the Subdivider, transmit with a cover letter and copies of the Final Plat and application as specified in the UDO application requirements manual
- 4 **Plan Commission Examination.** The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Ordinance, and all ordinances, rules, regulations, adopted regional and County development, City of Franklin Comprehensive Master Plan ( ), or other local comprehensive plans and adopted plan components which may affect the Final Plat
- 5 **Partial Platting.**
  - a **Plat Phasing.** The Final Plat may, if permitted by the Common Council, be platted as a Final Plat in phases with each phase constituting only that portion of the approved Preliminary Plat which the Subdivider proposes to record at that time. It is required that each such phase be platted as a Final Plat and be designated as a phase of the approved Preliminary Plat
  - b **Time Extension for Approval of a Final Plat for Portion of Preliminary Plat.** Final Plat for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for six (6) months from the date of such Final Plat approval
- 6 **Contract Required.** Prior to installation of any required improvements and prior to approval of the Final Plat, the Subdivider shall enter into a written contract (Development Agreement) with the City of Franklin requiring the Subdivider to furnish and construct said improvements at Subdivider's sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction by the City of Franklin or its agent. The Subdivider may construct the project in such phases as the Common Council approves, which approval may not be unreasonably withheld. If the Subdivider's project will be constructed in phases, the amount of any surety bond or other security required by the Common Council shall be limited to the phase of the project that is currently being constructed. The Common Council may not require that the Subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements

**E Final Plat Approval.**

- 1 **Objecting Agencies.** The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the Subdivider and all other approving authorities and objecting agencies of any objections
  - a If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Plan Commission via the City Clerk
  - b If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objections to the plat
- 2 **Submission.** If the Final Plat is not submitted within six (6) months of the required approval of the Preliminary Plat, the approving authorities may refuse to approve the Final Plat. Extensions may be granted upon mutual agreement of all approving authorities
- 3 **Plan Commission Recommendation to the Common Council.** The Plan Commission shall, within forty (40) days of the date of filing of the Final Plat with the City Clerk or other Common Council authorized agent, recommend approval, conditional approval, or denial of the plat and shall transmit the Final Plat and application along with its recommendations to the Common Council
- 4 **Approval or Rejection of Final Plat.** The Common Council shall within sixty (60) days of the date of filing the original Final Plat with the City Clerk approve or reject such Final Plat unless the time is extended by agreement with the Subdivider
  - a If the Final Plat is denied, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the Subdivider and surveyor



- b The Common Council may not inscribe its approval on the Final Plat unless the Department of Agriculture, Trade and Consumer Protection has certified on the face of the Final Plat that the copies were forwarded to the objecting agencies as required herein, the date thereof, and that no objections have been filed within twenty (20) days, or, if filed, have been met.
- c Failure of the Common Council to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the Final Plat shall be deemed approved
- d The Planning Manager shall provide the Common Council with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing

5 **Recordation.**

- a After the Final Plat has been approved by the Common Council and improvements as shall be required by the City to be installed or a contract and sureties ensuring their installation filed, the City Clerk shall cause the certificate inscribed upon the Final Plat attesting to such approval to be duly executed and the plat returned to the Subdivider for recording with the Milwaukee County Register of Deeds
- b The Register of Deeds cannot record the Final Plat unless it is offered within twelve (12) months from date of last approval or thirty (36) months from first approval

6 **Copies of the Recorded Final Plat.** The Subdivider shall file at least ten (10) copies of the recorded Final Plat with the City Clerk and copies, as necessary, to other affected agencies for their files

F **Plats Within the Extraterritorial Plat Approval Jurisdiction.** When the land to be subdivided lies within one and one-half (1 ½) miles of the corporate limits of a fourth-class city or village or within three (3) miles of the corporate limits of a first, second, or third class city, the Subdivider shall proceed as specified in §§ 15-9 0301 through 15-9 0306 except

- 1 **Transmittal Responsibility.** The City Clerk to whom the Certified Survey Map, Subdivision Plat, or Condominium is first submitted shall be responsible for transmitting copies of the Certified Survey Map, Subdivision Plat, or Condominium to designated objecting agencies. The Subdivider or Condominium Developer (as applicable) shall specify in the Subdivider's application to whom the original application was submitted
- 2 **Improvement and Design Requirements.** If the extraterritorial Certified Survey Map, Subdivision Plat, or Condominium contains lands located within a City of Franklin adopted sanitary sewer service area, the Subdivider or Condominium Developer (as applicable) shall comply with all of the improvement requirements of Division 15-8 0100 of this Ordinance and with all of the design requirements of Division 15-5 0100 of this Ordinance
- 3 **Park Dedication and Public Site Fees.** In extraterritorial plat approval jurisdiction areas of the City of Franklin, the subdivider or condominium developer shall not be required to dedicate park and open space land to the City of Franklin or be required to pay a public site fee or other development impact fees to the City of Franklin

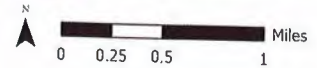
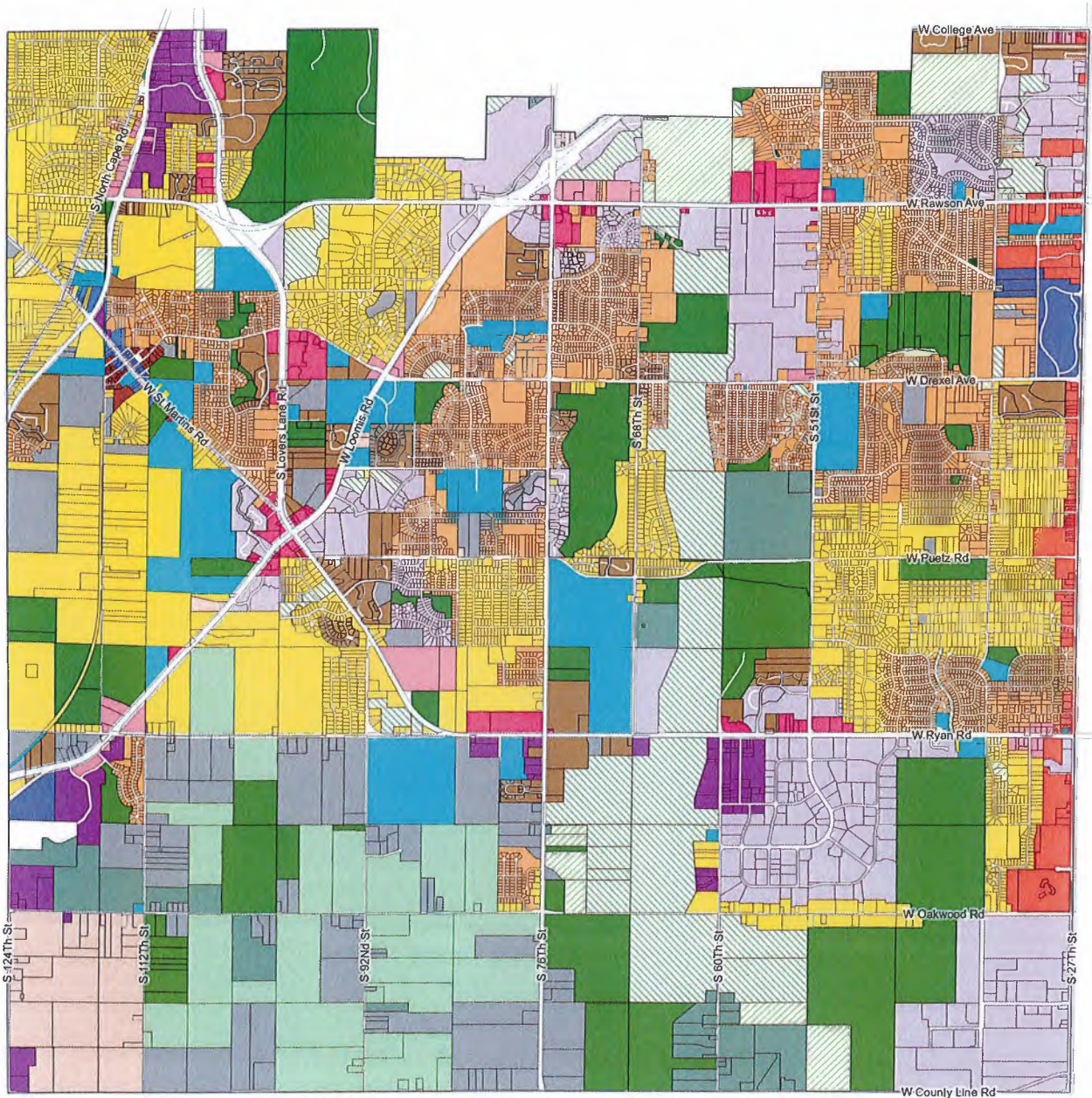
G **Replat.** Except as provided in § 70 27(1) of the Wisconsin Statutes, when it is proposed to replat a recorded subdivision, or part thereof, to change the boundaries of a recorded subdivision, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in § 236 40 through 236 44 of the Wisconsin Statutes. The Subdivider, or person wishing to replat, shall then proceed as specified in § 15-9 0301 through 15-9 0306 of this Ordinance

**15-9-12. Violations, Penalties, and Remedies**

A **Zoning Violations.** Unlawful to Use or Improve Any Structure or Land, or to Use Water or Air in Violation of Any Provisions of This Ordinance. It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any provisions of this Ordinance. In case of violation, the Common Council, the Zoning Administrator, the City Attorney, the Plan Commission or any property owner who would be specifically damaged by such violation, may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed

- B Structure, Fill, or Development Placed or Maintained Within Any Floodplain Area in Violation of this Ordinance.** Every structure, fill, or development placed or maintained within any floodplain area in violation of this Ordinance is hereby declared a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by action of suit of the State, the County, the City or any citizen thereof
- C Actions and Proceedings to Enjoin Violations.** The City of Franklin may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes or Wisconsin Administrative Code
- D Land Division Violations.**
- 1 Unlawful to Violate Ordinance Provisions.** It shall be unlawful to build upon, divide, convey, record or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes, and no person firm, or corporation shall be issued a Building Permit by the City of Franklin authorizing the building on, or improvement of, any Subdivision, Certified Survey Map, Condominium, or replat within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the provisions and requirements of this Ordinance have been fully met
  - 2 Actions and Proceedings to Enjoin Violations.** The City of Franklin may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes or Wisconsin Administrative Code
- E Penalties and Remedies.**
- 1 Double Fee.** A double fee shall be charged by the Zoning Administrator if work is started before a permit is applied for and issued Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance
  - 2 Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Common Council, the Zoning Administrator, the Director of Inspection Services, or the City Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water
  - 3 Forfeiture and Imprisonment.** Any person, firm, or corporation who violates or fails to comply with the provisions of this Ordinance shall, upon conviction thereof, in addition to all other remedies set forth under this Ordinance, be subject to the penalty provisions set forth under § 31.04 of the Municipal Code, as amended
  - 4 Separate Offense.** Each day a violation exists or continues shall constitute a separate offense
  - 5 Injunctive Relief.** In addition to the above-described fines, the Common Council or its agent shall have the power to institute appropriate action for injunctive relief to prevent persons, firms, or corporations from acting in violation of the provision of this Ordinance
  - 6 Violations and Concomitant Penalties Relating to Land Division.** Violations and concomitant penalties shall include
    - a Improper Recordation.** Recordation improperly made carries penalties as provided in § 236.30 of the Wisconsin Statutes
    - b Conveyance of Lots in Unrecorded Plats.** Conveyance of lots in unrecorded plats carries penalties as provided for in § 236.31 of the Wisconsin Statutes
    - c Monuments Disturbed or Not Placed** Monuments disturbed or not placed carries penalties as provided for in § 236.32 of the Wisconsin Statutes

# Proposed Zoning



## Proposed Zoning

- |                                  |  |                                  |
|----------------------------------|--|----------------------------------|
| A - Agricultural                 | B-G - General Business                       | LI - Limited Industrial          |
| A-P - Prime Agricultural         | B-R - Regional Business                      | P - Park and Open Space          |
| R-SE - Suburban/Estate Residence | B-MU - South 27th Street Mixed-Use           | PDL - Planned Development Legacy |
| R-SR - Suburban Residence        | B-P - Business Park                          | GFP - General Floodplain         |
| R-M - Multiple-Unit Residence    | B-SM - Saint Martin's Road Historic Business | FF - Floodfringe                 |
| R-V - Village Residence          | R-C - Conservation Residence                 | FW - Floodway                    |
| B-N - Neighborhood Business      | I - Institutional                            | L - Land Fill                    |

APPROVAL	COMMITTEE OF THE WHOLE	MTG. DATE February 6, 2023
Reports & Recommendations	<b>An Ordinance to Repeal Chapter 165 of the Municipal Code and to Repeal and Recreate Chapter 129 of the Municipal Code and to Rename Chapter 129 From “Filling and Grading” to “Land Disturbing Construction Activities”</b>	ITEM NO.  D.

**BACKGROUND**

This topic was presented at the November 1, 2022 Common Council meeting (G.11). The topic was tabled to the February 6, 2023 Committee of the Whole.

The Engineering Department has discussed updating the permit and process for land disturbing construction activities. This would include significant revisions to Municipal Code Chapter 129 “Filling and Grading” and Chapter 165 “Land Disturbances”. These two chapters are in need of revisions to become more consistent with the Unified Development Ordinance (UDO), Wisconsin Administrative Code, and our permitting related to land disturbing construction activities. Attached is Chapter 165 to be repealed and the proposed version of Chapter 129 with revisions shown.

Also attached are the current “fill/soils disturbing permit” and the proposed “construction site erosion control permit”. These are for reference only as Common Council did not approve the current permit and does not approve content and format of any other permit application.

**ANALYSIS**

The current “Fill/Soils Disturbing Permit Application” is not directly referenced in Municipal Code Chapter 129, Chapter 165, or the UDO. The intent of the proposed changes is to attain consistency and clarity throughout the Municipal Code, UDO, and permitting related to land disturbing construction activities. This change will allow for City Staff to more easily review, approve, process, and administer permit requirements. Additionally, these revisions are consistent with the requirements of the City’s Municipal Separate Storm Sewer System (MS4) permit with the Wisconsin Department of Natural Resources (WDNR) and Wisconsin Administrative Codes.

**A summary of the proposed changes are as follows:**

1. Repeal Chapter 165. The current chapter was put in place in 1997 and is not in line with the UDO or permitting related to land disturbances. The proposed repeal and recreation of Chapter 129 and current UDO render Chapter 165 ineffective. There are no direct references in the Municipal Code or UDO to Chapter 165.
2. Repeal and Recreate Chapter 129 and rename Chapter 129. The current chapter title does not align with the existing or proposed permit and does not encompass other land disturbing construction activities that trigger erosion control requirements.

Land disturbing construction activity defined by Wisconsin Administrative Code NR 151 – *“Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.”*

3. Expanding the definitions of Chapter 129 to better align with the UDO and Wisconsin Department of Natural Resources relating to construction site erosion control.
4. The City would be allowed to issue verbal stop work orders, citations, and revoke a permit for non-compliance.

5. Updated erosion and sediment control plan requirements in Chapter 129. The proposed changes will require a more comprehensive erosion and sediment control plan for applicable sites. This references what is currently in the UDO and required by WDNR.
6. Revise permit fee and class schedule for easier administration and inclusion of a maximum permit fee. Permit fees will not increase.
  - a. Class 1 would remain  $\frac{1}{4}$  to  $\frac{1}{2}$  acre area of disturbance, \$50.
  - b. Class 2 would remain  $\frac{1}{2}$  to 2 acre area of disturbance, \$100.
  - c. Class 3 would remain 2+ acres area of disturbance, \$250. Plus additional \$5 per 1,000 square feet of disturbance beyond 2 acres. Maximum permit fee of \$3,000.
7. Responsibility of the applicant to pay for the costs of construction site review, inspection, and enforcement charges in Chapter 129 and acknowledgement and agreement of these charges in the proposed construction site erosion control permit application.
  - a. The current (and historical) practice by the City is for consulting firms to perform erosion control inspections on City permitted construction sites. When the Engineering Department receives invoices from these firms for inspections, the City pays the invoices and bills back the developer/applicant the cost of the invoice plus 5% for administration and overhead.
  - b. Currently, there is no clear indication within the existing permit that the charges for these inspections are the responsibility of the permittee, it is only relayed to the developer/applicant during the review process or if the development is part of a development agreement with public infrastructure.
  - c. The proposed version of the permit has a section to outline the inspection requirements and acknowledgement of the applicant's responsibility for inspection charges. The potential charges for inspection are summarized and current hourly rates are provided so that the applicant can estimate an approximate total for the charges over the life of the permit.
    - i. The City's MS4 requires the City to inspect permitted construction sites for erosion control at minimum once per month. Historically the City consultants have performed these inspections weekly. The proposed permit application outlines the minimum frequency of inspection by the City, but also notes that site conditions may require more frequent inspections.
  - d. Staff reached out to other municipalities and verified that a majority charge for this inspection work using a variety of methods.
  - e. Staff explored using an escrow deposit at the time of application for inspection charges, but after discussions with several developers, they confirmed that the invoicing method is the preferred way to process these charges so they can review and track the charges.
  - f. Not all permitted sites will include review, inspection, and enforcement charges. These charges typically come with larger developments that require storm water management plans and significant land disturbance. In general this would be sites adding  $\frac{1}{2}$  acre or more of impervious surface and/or disturbing 1 or more acre.

It should be noted that Staff frequently fields questions from contractors and developers asking if the City has an erosion control permit as the current "fill/soils disturbing permit" is not clear in this regard when searching the City website or Municipal Code.

Similarly, the Engineering Department utilities consultant engineering services for storm water management plan review for developments. The charges for those reviews are also billed back to the developer/applicant in a similar process to the inspection charges. There is no formal application for engineering and storm water management plan review at this time and the responsibility for review charges is only relayed to the developer/applicant during pre-application meetings. To allow for a formal acknowledgement of these review charges, Engineering Staff has created an engineering and storm water management plan (SWMP) review application form. There is no base application fee for the review application, however it allows for a formal acknowledgement and agreement that the developer/applicant is responsible for any review

charges (plus 5 percent for administration and overhead). The application for engineering and storm water management plan review is attached for reference.

**OPTIONS**

Approve or Modify Ordinance as proposed by Staff.

**FISCAL NOTE**

Consultant invoices are first paid for by the City (01.0321.5216) and the City then bills back the developer/applicant the invoice cost plus 5% (01.0000.4479).

Permit application base fees and classes will remain unchanged, the additional fee calculation is being modified and a maximum permit fee is being proposed.

Rates of compensation for inspection services are common for all firms and revised every 2 years.

Engineering: TAB

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2023-\_\_\_\_\_

ORDINANCE TO REPEAL CHAPTER 165 OF THE MUNICIPAL CODE AND TO  
REPEAL AND RECREATE CHAPTER 129 OF THE MUNICIPAL CODE AND TO  
RENAME CHAPTER 129 FROM “FILLING AND GRADING” TO  
“LAND DISTURBING CONSTRUCTION ACTIVITIES”

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WHEREAS, the City wishes to update the permit and process for land disturbing construction activities; and

WHEREAS, Staff has recommended to the Common Council to repeal Franklin Municipal Code Chapter 165 Land Disturbances; and

WHEREAS, Staff has recommended to the Common Council the adoption of a significant rewrite of Franklin Municipal Code Chapter 129 Filling and Grading, including the title of the chapter; and

WHEREAS, among many changes, the significant changes provide for: uniformity between the Municipal Code, the Unified Development Ordinance, the Wisconsin Administrative Code and City permit applications; applicant responsibility for the cost of construction site inspection, review, and enforcement charges; and the issuance of stop work orders, citations, and revoking a permit for non-compliance; and

WHEREAS, the Common Council having considered the recommendation and having determined same to be reasonable and in the public interest.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do hereby ordain as follows:

SECTION 1: Chapter 165 “Land Disturbances” of the Municipal Code of the City of Franklin, Wisconsin, is hereby repealed

SECTION 2: Chapter 129 “Filling and Grading” of the Municipal Code of the City of Franklin, Wisconsin, is hereby is renamed “Land Disturbing Construction Activities”

SECTION 3: Chapter 129 of the Municipal Code of the City of Franklin, Wisconsin, is hereby repealed and recreated to read as follows:

**Chapter 129**

**Land Disturbing Construction Activities**

§129-1 Land disturbing construction activities.

§129-2 Construction site erosion control permit.

§129-3 Definitions.

§129-4 Land disturbing construction activity regulations.

§129-5 Inspector; powers and duties.

**§129-6** Persons liable.

**§129-7** Public nuisance.

**§129-8** Special permit; emergency.

**§129-9** Intent and purpose.

**§129-10** Violations and penalties.

**§129-1 Land disturbing construction activities.**

A permit is required. No person or entity shall conduct land disturbing construction activities upon any lot, tract or parcel of land unless the person or entity shall first obtain a construction site erosion control permit pursuant to §129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction.

**§129-2 Construction site erosion control permit.**

- A. Applicability and Jurisdiction. This section applies to the sites of any land disturbing construction activities, as provided in §15-8.0302 of the Unified Development Ordinance (UDO).
- B. Application; revocation. A construction site erosion control permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein. Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if the person or entity be other than the owner. It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or acreage of land area to be disturbed. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication.
  1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing or land development activities if:
    - a. Any land disturbing activity regulated under this chapter is being undertaken without a permit; or
    - b. The control plan is not being implemented in a good faith manner; or
    - c. The conditions of the permit are not being met.
  2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit.
  3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order.
  4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to §15-9.0500 of the UDO and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis. Stat. § 66.0627. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this subsection is hereby declared to be a public nuisance.



5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, §1-19.

C. Permit fee schedule and applicable charges.

1. Class 1: land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre: \$50.00.
2. Class 2: land disturbing construction activities upon a site of 1/2 acre up to 2 acres, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity: \$100.00.
3. Class 3: land disturbing construction activities upon a site of 2 or more acres and/or: \$250.00, plus an additional \$5.00 for each 1,000 square feet disturbed or portion thereof in addition to the base 2 acres.
4. Surety Bond. As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
5. Charges for costs of construction site inspection, review, and enforcement. As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8.0300, and/or Wis. Stat. § 216.46.

D. Erosion and sediment control plan, statement, and amendments.

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to §15-8.0300 of the UDO and more specifically, §15-8.0307, Erosion and Sediment Control Plan, Statement, and Amendments.

**§129-3 Definitions.**

For the purpose of this Chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows:

**ADVERSE DRAINAGE IMPACTING**

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

**BEST MANAGEMENT PRACTICE or BMP**

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

**CEASE AND DESIST ORDER**

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

**CONSTRUCTION SITE**

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

**CONSTRUCTION SITE EROSION CONTROL PERMIT**

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.

**CONTROL PLAN**

Erosion control and sediment control plan for the construction site.

**EROSION**

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

**EROSION AND SEDIMENT CONTROL PLAN**

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**FILL**

Earth, clay, soil, ground, or any mixture or combination of the foregoing. Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

**HAZARDOUS SUBSTANCE**

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources.

**INFLAMMABLE AND COMBUSTIBLE MATERIALS**

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible.

**INSPECTOR**

The City Engineer or designee. The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein.

**LAND DISTURBING CONSTRUCTION ACTIVITY**

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

**LANDOWNER**

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.

**PERFORMANCE STANDARD**

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**PERSON**

Includes any natural person, firm, corporation or partnership.

**POLLUTANT**

Has the meaning given in Wis. Stat. § 283.01(13).

**POLLUTION**

Has the meaning given in Wis. Stat. § 281.01(10).

**RESPONSIBLE PARTY**

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise.

**RUNOFF**

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**SEDIMENT**

Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**SITE**

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore.

**STOP WORK ORDER**

An order issued by the City of Franklin, which requires that all construction activity on the site be stopped.

**SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES**

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in §15-8.0300, Table 4.0100.

**TECHNICAL STANDARD**

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.

**WATERS OF THE STATE**

Has the meaning given in Wis. Stat. § 281.01(18).

**§129-4 Land disturbing construction activity regulations.**

- A. Every person who shall conduct land disturbing construction activities upon any lot, tract or parcel of land shall do so as evenly as possible, and at the end of such activities shall level and grade the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. The person shall keep the surface of such land disturbing construction activities free from dust at all times during the filling operations and thereafter.
- B. Land disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines.
- C. All materials delivered to the construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties.
- D. All construction operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily and 7:00 a.m. to 12:00 p.m. on Saturdays, unless otherwise shown and permitted on the application. No such activity shall be permitted on Sundays.
- E. No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles.
- F. Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way.
- G. No natural drainageways or swales shall be blocked, and construction activities shall be performed in a manner to prevent formation of water nuisances or insect-breeding ponds.

- H. Should any construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at the permittee's expense upon the order of the City Engineer.
- I. Fencing or suitable visual screen as required and/or approved by the City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the City Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site.
- J. No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on the person's or entity's property during normal business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter.
- K. No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under the permit until the appeal is decided.
- L. For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the land disturbing construction activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be certified by a geo-physical engineer as meeting the established density. Weekly reports shall be submitted to the City Engineer or designee for review and approval. Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer.
- M. If any person fails to complete or correct the person's land disturbing construction activities in accordance with the terms of the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or certified mail at least seven days prior to the hearing. The permittee shall have the right to be heard and to be represented by legal counsel. The City Common Council by resolution may order the work completed or corrected and levy a special charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special charges. The permittee may appeal to the Circuit Court within 20 days after a copy of the final resolution is served upon the permittee by personal service or certified mail. If no appeal is taken within such time, the special charge shall be final.

- N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.
- O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to §15-8.0300 and more specifically, §15-8.0305, Performance Standards.

**§129-5 Inspector; powers and duties.**

- A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of land disturbing construction activities within the City as hereinafter set forth.
- B. Such Inspector shall have complete charge and supervision over the regulation and operation of land disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in land disturbing construction activities, the person's agent, servants or employees, compliance in all respects with the terms and provisions of this Chapter and all other rules and regulations concerning land disturbing construction activities within the City.
- C. Should the Inspector find that any person engaged in land disturbing construction activities is failing to conform to the provisions of this Chapter or other rules, regulations or orders, he or she may require that the person discontinue operations immediately and until such time as the person engaged in land disturbing construction activities thereof may conform to this Chapter, rules, regulations or orders. Should the operator, the operator's servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Chapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises.
- D. The Inspector shall be the representative of the City at any land disturbing construction activity site within the City. He or she may require the ceasing of operations and the discontinuing of the operations until such time as there may be proper compliance with this Chapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of land disturbing construction activities.

**§129-6 Persons liable.**

The owner, lessee or any other person having possession and control over any land disturbing construction activities, be it public or private under, the terms of this Chapter, shall be responsible for the actions of the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them.

**§129-7 Public nuisance.**

The depositing on any land of hazardous, flammable and/or combustible materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance.

**§129-8 Special permit; emergency.**

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefore and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable.

**§129-9 Intent and purpose.**

It is specifically determined by the Common Council that it is the intent and purpose of this Chapter to regulate land disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety.

**§129-10 Violations and penalties.**

- A. Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation.
- B. In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, §1-19.

SECTION 4:           The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 5:           All ordinances or parts of ordinances in contravention to this Ordinance are hereby repealed.

SECTION 6:           This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Karen L. Kastenson, City Clerk

AYES \_\_\_\_ NOES \_\_\_\_ ABSENT \_\_\_\_



**§ 129-1 Land disturbing construction activities.**

A permit is required. No person or entity shall conduct land disturbing construction activities upon any lot, tract or parcel of land unless the person or entity shall first obtain a construction site erosion control permit pursuant to § 129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction.

**§ 129-2 Construction site erosion control permit.**

**A. Applicability and Jurisdiction.** This section applies to the sites of any land disturbing construction activities, as provided in § 15-8.0300 of the Unified Development Ordinance (UDO).

**B. Application; revocation.** A construction site erosion control permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein. Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if the person or entity be other than the owner. It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or acreage of land area to be disturbed. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication.

1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing, or land development activities if:

- a. Any land disturbing activity regulated under this chapter is being undertaken without a permit; or
- b. The control plan is not being implemented in a good faith manner; or
- c. The conditions of the permit are not being met.

2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit.

3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order.

4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to § 15-9.0500 of the UDO and the undertaking by the City to

cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis. Stat. § 66.0627. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this subsection is hereby declared to be a public nuisance.

5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty pursuant to § 15-9.0500 of the UDO and as provided in Chapter 1, General Provisions, § 1-19.

### C. Permit fee schedule and applicable charges.

(1) Class 1: land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre: \$50.00.

(2) Class 2: land disturbing construction activities upon a site of 1/2 acre up to 2 acres, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity: \$100.00.

(3) Class 3: land disturbing construction activities upon a site of 2 or more acres: \$250.00, plus an additional \$5.00 for each 1,000 square feet disturbed or portion thereof in addition to the base 2 acres. Maximum permit fee \$3,000.00.

(4) Surety Bond - As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(5) Charges for costs of construction site inspection, review, and enforcement. As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or

surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8.0300, and/or Wis. Stat. § 216.46.

**D. Erosion and sediment control plan, statement, and amendments.**

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8.0300 of the UDO and more specifically, § 15-8.0307, Erosion and Sediment Control Plan, Statement, and Amendments.

**§ 129-3 Definitions.**

For the purpose of this chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows:

**ADVERSE DRAINAGE IMPACTING**

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

**BEST MANAGEMENT PRACTICE or BMP**

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

**CEASE AND DESIST ORDER**

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

**CONSTRUCTION**

Any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term "construction" shall include land clearing, grading, excavating, and filling and shall also mean the finished product of any such work or operations.

**CONSTRUCTION SITE**

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple

separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

### **CONSTRUCTION SITE EROSION CONTROL PERMIT**

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.

### **CONTROL PLAN**

Erosion and sediment control plan for the construction site.

### **EROSION**

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

### **EROSION AND SEDIMENT CONTROL PLAN**

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

### **FILL**

Earth, clay, soil, ground, or any mixture or combination of the foregoing. Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

### **HAZARDOUS SUBSTANCE**

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources.

### **INFLAMMABLE AND COMBUSTIBLE MATERIALS**

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible.

### **INSPECTOR**

The City Engineer or designee. The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein.

### **LAND DISTURBING CONSTRUCTION ACTIVITY**

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes removing vegetative cover, clearing and grubbing, excavating, filling, grading, demolition, excavating, and pit trench dewatering, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications (if less than 2,000 square feet).

### **LANDOWNER**

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.

### **PERFORMANCE STANDARD**

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

### **PERSON**

Includes any natural person, firm, corporation or partnership.

### **POLLUTANT**

Has the meaning given in Wis. Stat. § 283.01 (13).

### **POLLUTION**

Has the meaning given in Wis. Stat. § 281.01 (10).

### **RESPONSIBLE PARTY**

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise.

### **RUNOFF**

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

### **SEDIMENT**

Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

### **SITE**

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore.

### **STOP WORK ORDER**

An order issued by the City of Franklin, which requires that all construction activity on the site be stopped.

### **SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES**

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in § 15-8.0300, Table 4.0100.

### **TECHNICAL STANDARD**

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.

### **WATERS OF THE STATE**

Has the meaning given in Wis. Stat. § 281.01(18).

### **§ 129-4Land disturbing construction activity regulations.**

**A.** Every person who shall conduct land disturbing construction activities upon any lot, tract or parcel of land shall do so as evenly as possible, and at the end of such activities shall level and grade the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. The person shall keep the surface of

such land disturbing construction activities free from dust at all times during the filling operations and thereafter.

**B.** Land disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines.

**C.** All materials delivered to the construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties.

**D.** All construction operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily and 7:00 a.m. to 12:00 p.m. on Saturdays, unless otherwise shown and permitted on the application. No such activity shall be permitted on Sundays.

**E.** No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles.

**F.** Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way.

**G.** No natural drainageways or swales shall be blocked, and construction activities shall be performed in a manner to prevent formation of water nuisances or insect-breeding ponds.

**H.** Should any construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at the permittee's expense upon the order of the City Engineer.

**I.** Fencing or suitable visual screen as required and/or approved by the City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site.

**J.** No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on the person's or entity's property during normal business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter.

**K.** No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under the permit until the appeal is decided.

**L.** For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the land disturbing construction activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be certified by a geo-physical engineer as meeting the established density. Weekly reports shall be submitted to the City Engineer or designee for review and approval. Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer.

**M.** If any person fails to complete or correct the person's land disturbing construction activities in accordance with the terms of the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or certified mail at least seven days prior to the hearing. The permittee shall have the right to be heard and to be represented by legal counsel. The City Common Council by



resolution may order the work completed or corrected and levy a special charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments. The permittee may appeal to the Circuit Court within 20 days after a copy of the final resolution is served upon the permittee by personal service or certified mail. If no appeal is taken within such time, the special charge shall be final.

N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.

O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8.0300 and more specifically, § 15-8.0305, Performance Standards.

**§ 129-5 Inspector; powers and duties.**

A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of land disturbing construction activities within the City as hereinafter set forth.

B. Such Inspector shall have complete charge and supervision over the regulation and operation of land disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in land disturbing construction activities, the person's agent, servants or employees, compliance in all respects with the terms and provisions of this Chapter and all other rules and regulations concerning land disturbing construction activities within the City.

C. Should the Inspector find that any person engaged in land disturbing construction activities is failing to conform to the provisions of this Chapter or other rules, regulations or orders, he or she may require that the person engaged in land disturbing construction activities discontinue operations immediately and until such time as the person engaged in land disturbing construction activities thereof may conform to this Chapter, rules, regulations or orders. Should the operator, the operator's servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Chapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or

all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises.

**D.** The Inspector shall be the representative of the City at any land disturbing construction activity site within the City. He or she may require the ceasing of operations and the discontinuing of the operations until such time as there may be proper compliance with this Chapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of land disturbing construction activities.

**§ 129-6Persons liable.**

The owner, lessee or any other person having possession and control over any land disturbing construction activities, be it public or private under, the terms of this Chapter, shall be responsible for the actions of the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them.

**§ 129-7Public nuisance.**

The depositing on any land of hazardous substance, flammable and/or combustible materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance.

**§ 129-8Special permit; emergency.**

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefore and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be

dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable.

**§ 129-9 Intent and purpose.**

It is specifically determined by the Common Council that it is the intent and purpose of this chapter to regulate land disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety.

**§ 129-10 Violations and penalties.**

**A.** Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation.

**B.** In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

§ 129-1 Filling permit. Land disturbing construction activities.

~~A. A permit is Rrequired. No person or entity shall fill conduct land disturbing construction activities upon any lot, tract or parcel of land unless he or she the person or entity shall first obtain a filling construction site erosion control permit pursuant to § 129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction.~~

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§ 129-2 Construction site erosion control permit.

~~A. Applicability and Jurisdiction This section applies to the sites of any land disturbing construction activities, as provided in § 15-8 0300 of the Unified Development Ordinance (UDO).~~

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~~B. Application, revocation A construction site erosion control A filling permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein. Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if he or she the person or entity be other than the owner. It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or a reage of land area to be disturbed necessary to fill such land to approximately the grade of the terram bounding the area to be filled. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication. The permit may be revoked by the City Council upon notice to the permittee and hearing if the permittee is depositing or permitting or causing to be deposited any materials on such premises other than solid fill or has failed to or refused to comply with any of the regulations set forth herein or any of the rules, regulations and orders of the Inspector herein. Such hearing shall be conducted in the manner provided in § 227-15, Wis. Stats.~~

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~~1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing, or land development activities if~~

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~~a. Any land disturbing activity regulated under this chapter is being undertaken without a permit, or~~

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~~b. The control plan is not being implemented in a good faith manner, or~~

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~~c. The conditions of the permit are not being met~~

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2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit

3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order

4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to § 15-9-0500 of the UDO and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis Stat § 66.0627. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this subsection is hereby declared to be a public nuisance

5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty pursuant to § 15-9-0500 of the UDO and as provided in Chapter 1, General Provisions, § 1-19.

C. Permit fee schedule and applicable charges

(1) Class 1, land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre \$50.00. Up to 500 cubic yards of fill or up to 1/2 acre of fill area \$50.

(2) Class 2, land disturbing construction activities upon a site of 1/2 acre up to 2 acres, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity \$100.00. More than 500 cubic yards of fill or more than 1/2 acre of fill area \$250.

(3) Class 3, land disturbing construction activities upon a site of 2 or more acres \$250.00, plus an additional \$5.00 for each 1,000 square feet disturbed or portion thereof in addition to the base 2 acres. Maximum permit fee \$3,000.00.

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(4) Surety Bond - As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

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(5) Charges for costs of construction site inspection, review, and enforcement  
As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8 0300, and/or Wis. Stat. § 216.46.

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D. Erosion and sediment control plan, statement, and amendments

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8 0300 of the UDO and more specifically, § 15-8 0307, Erosion and Sediment Control Plan, Statement, and Amendments. Fill in excess of 500 cubic yards. If it appears from the application for such filling permit that the amount of fill reasonably required to alter the contour of the subject filling site to approximate grade of the terrain bounding the area to be filled shall exceed 500 cubic yards, the provisions of § 129.2 shall become applicable and govern the issuance of such filling permit. If the estimate of the Inspector shall differ from the estimate of the applicant as to the number of cubic yards required, the estimate of the Inspector shall be controlling.

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§ 129.2 Topographic and contour map. [Amended 4-15-2014 by Ord. No. 2014-2137]

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Whenever the amount of fill required shall exceed 500 cubic yards or the area exceeds 1/2 acre, the applicant shall submit a topographic and contour map at a scale not over 100 feet to the inch, with two-foot contour intervals based on USGS datum. Such map shall show the proposed fill area, proposed final contours, drainage patterns and special drainage devices, if necessary, and all other pertinent information as may be required.

to clearly indicate the orderly development of the fill area including a preliminary plan for the current reasonably anticipated or determined end use of the property, provided, however, in the case of the excavation or the filling in of a building site where a building permit has been issued for the erection of a new building or structure, the alteration or addition thereto and the proposed final grades of such excavation and grading are included in the plat plans as submitted and approved by the Inspector and the total amount of filling required does not exceed 500 cubic yards, a filling permit shall not be required.

**§ 129-3 Definitions.**

For the purpose of this chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows

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**ADVERSE DRAINAGE IMPACTING**

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

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**BEST MANAGEMENT PRACTICE or BMP**

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

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**CEASE AND DESIST ORDER**

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

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**CONSTRUCTION**

Any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term "construction" shall include land clearing, grading, excavating, and filling and shall also mean the finished product of any such work or operations.

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**CONSTRUCTION SITE**

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple

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separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan

### CONSTRUCTION SITE EROSION CONTROL PERMIT

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post construction runoff to waters of the State

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### CONTROL PLAN

Erosion and sediment control plan for the construction site

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### EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity

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### EROSION AND SEDIMENT CONTROL PLAN

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction

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### FILL OR FILLING

Earth, clay, soil, ground, or any mixture or combination of the foregoing. Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

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The act of placing, setting down or depositing solid fill on land for the purpose of or which has the resultant effect of changing the existing contour of or raising the elevation of such land or any part thereof

### HAZARDOUS SUBSTANCE

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources

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**FILLING PERMIT**

A permit to allow a person to engage in the act of filling on a specified parcel of land  
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**INFLAMMABLE AND COMBUSTIBLE MATERIALS**

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible

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**INSPECTOR**

The City Engineer or designee. The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein  
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**LAND DISTURBING CONSTRUCTION ACTIVITY**

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes removing vegetative cover, clearing and grubbing, excavating, filling, grading, demolition, excavating, and pit trench dewatering, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, harvesting of trees, and landscaping modifications (if less than 2,000 square feet)

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**LANDOWNER**

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property

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**PERFORMANCE STANDARD**

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice

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**PERSON**

Includes any natural person, firm, corporation or partnership

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**POLLUTANT**

Has the meaning given in Wis Stat § 283.01(13)

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**POLLUTION**

Has the meaning given in Wis Stat § 281.01(10)

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**RESPONSIBLE PARTY**

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise

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**RUNOFF**

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow

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**SEDIMENT**

Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location

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**SITE**

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore

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**STOP WORK ORDER**

An order issued by the City of Franklin, which requires that all construction activity on the site be stopped

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**SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES**

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in § 15-8.0300, Table 4.0100

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**TECHNICAL STANDARD**

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method

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**WATERS OF THE STATE**

Has the meaning given in Wis Stat § 281.01(18)

**SOLID FILL**

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~~Earth, clay, soil, ground, stones, rocks or broken concrete if the same does not exceed 18 inches in diameter, cinders consisting of the residue from the combustion of coal and not less than 1/8 inches in diameter, or any mixture or combination of the foregoing~~

§ 129-4 Land disturbing construction activity Filling regulations,

A. Every person who shall conduct land disturbing construction activities fill upon any lot, tract or parcel of land shall fill do so such land as evenly as possible, and at the end of such filling activities shall level and grade such fill the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. He or she  
The person shall keep the surface of such filling land disturbing construction activities free from dust at all times during the filling operations and thereafter

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B. Land filling disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines

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C. All materials delivered to the landfill construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties.

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D. All fill construction operations shall be confined to the hours of 7.00 a m to 5 00 p m daily and 7 00 a.m to 12 00 p m on Saturdays, unless otherwise shown and or permitted on the application. No such activity shall be permitted on Sundays.

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E. No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles

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F. Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way. Roadways to and across the landfill site shall be treated to prevent dust nuisances.

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G. No natural drainageways or swales shall be blocked, and fill construction activities shall be placed performed in a manner to prevent formation of water nuisances or insect-breeding ponds

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H. Should any fill construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at his or her the permittee's expense upon the order of the City Engineer

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I. Fencing or suitable visual screen as required and/or approved by the Plan Commission City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the City Council Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site

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J. No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on his or her the person's or entity's property during normal business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter

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K. No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service thereof of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under his or her the permit until the appeal is decided

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L. For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the filling land disturbing construction operation activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be

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certified by a geo-physical engineer as meeting the established density Weekly reports shall be submitted to the City Engineer or designee for review and approval Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer

[Added 4-15-2014 by Ord. No. 2014-2137]

~~[Editor's Note This ordinance also provided for the redesignation of former Subsections L and M as Subsections M and N, respectively]~~

M. If any person fails to complete or correct his or her the person's landfill land disturbing construction operation activities in accordance with the terms of his or her the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a public hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located Notice shall be given by personal service or certified mail at least seven days prior to the hearing The permittee shall have the right to be heard and to be represented by legal counsel The City Common Council by resolution may order the work completed or corrected and levy a special assessment charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments The permittee may appeal to the circuit Court within 20 days after a copy of the final resolution is served upon him or her the permittee by personal service or certified mail. If no appeal is taken within such time, the assessment special charge shall be final.

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N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a filling construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.

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O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8-0300 and more specifically, § 15-8-0305, Performance Standards Fill and filling are also regulated by and subject to the Unified Development Ordinance, including, but not limited to Division 15-8-0300 and more specifically, § 15-8-0305, Control of Erosion, Pollutants and Nuisance During Land Disturbance and Development

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[Added 4-15-2014 by Ord. No. 2014-2137]

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**§ 129-5 Inspector; powers and duties.**

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A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of fill or fillingland disturbing construction activities within the Ceity as hereinafter set forth

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B. Such Inspector shall have complete charge and supervision over the regulation and operation of fillingland disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of filling-land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in fillingland disturbing construction activities, his or her agentthe person's agent, servants or employees, compliance in all respects with the terms and provisions of this Cehapter and all other rules and regulations concerning filling land disturbing constnuction activities within the Ceity.

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C. Should the Inspector find that any person engaged in filling-land disturbing construction activities is failing to conform to the provisions of this Cehapter or other rules, regulations or orders, he or she may require that the person engaged in land disturbing construction activities filling-discontinue operations immediately and until such time as the person engaged in filling-land disturbing construction activities thereof may conform to this Cehapter, rules, regulations or orders. Should the operator, his or herthe operator's, servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Cehapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises

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D. The Inspector shall be the representative of the Ceity at any filling-land disturbing construction activity site within the Ceity. He or she may require the ceasing of filling operations and the discontinung of the operations until such time as there may be proper compliance with this Cehapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of filling-landsland disturbing construction activities

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§ 129-6Persons liable,

The owner, lessee or any other person having possession and control over any filling land disturbing construction activitiesoperation, be it public or private under, the terms

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of this Chapter, shall be responsible for the actions of ~~his or her~~ the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of ~~his or her~~ the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them

**§ 129-7 Public nuisance.**

The depositing on any land of ~~hazardous substance, flammable and/or combustible materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance~~

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**§ 129-8 Special permit; emergency.**

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefor and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a ~~dump or fill~~ land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable

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**§ 129-9 Intent and purpose.**

It is specifically determined by the Common Council that it is the intent and purpose of this chapter to regulate ~~filling operations~~ land disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety

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**§ 129-10 Violations and penalties.**

A. Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation. Any person or municipality violating the provisions of this chapter shall be liable for any or all damages or expenses sustained or incurred by the city by reason of any fire occurring in any such public or private dumping ground or other place within the city caused by any dumping referred to in this chapter, together with any expenses which the city may incur in enforcing any of the terms or provisions of this chapter.

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B. In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

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§ 129-1 Filling permit. Land disturbing construction activities.

~~A. A permit is required. No person or entity shall fill conduct land disturbing construction activities upon any lot, tract or parcel of land unless he or she the person or entity shall first obtain a filling construction site erosion control permit pursuant to § 129-2 hereof and post the same upon the premises in the manner provided for the posting of a building permit as set forth in Chapter 92, Building Construction~~

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§ 129-2 Construction site erosion control permit.

A. Applicability and Jurisdiction This section applies to the sites of any land disturbing construction activities, as provided in § 15 8 0300 of the Unified Development Ordinance (UDO).

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~~B. Application, revocation~~ A construction site erosion control ~~A filling permit shall be issued by the City Engineer upon application being made and filed with him or her upon payment of the permit fee as set forth herein. Such application shall be signed by the owner of the premises involved, together with the person or entity applying for the permit, if he or she be the person or entity be other than the owner. It shall contain the location of the premises and an accurate description of the same and include an estimate of the number of cubic yards or acreage of land area to be disturbed necessary to fill such land to approximately the grade of the terrain bounding the area to be filled. The permit shall be for a period of one year and subject to renewal each successive year upon reapplication. The permit may be revoked by the City Council upon notice to the permittee and hearing if the permittee is depositing or permitting or causing to be deposited any materials on such premises other than solid fill or has failed to or refused to comply with any of the regulations set forth herein or any of the rules, regulations and orders of the Inspector herem. Such hearing shall be conducted in the manner provided in § 227-15, Wis Stats.~~

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1. The City Engineer or designee may issue a stop-work order verbally or in writing to the applicant and may post a stop-work order on all building, construction, land disturbing, or land development activities if

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a. Any land disturbing activity regulated under this chapter is being undertaken without a permit, or

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b. The control plan is not being implemented in a good faith manner, or

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c. The conditions of the permit are not being met

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2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit

3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order

4. In addition to the foregoing provisions of this section, this subsection may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to § 15-9 0500 of the UDO and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under Wis Stat § 66 0627 It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings Any violation of this subsection is hereby declared to be a public nuisance

5. In addition to the foregoing provisions of this section, any person who shall violate any provision of this Chapter shall be subject to a penalty pursuant to § 15-9 0500 of the UDO and as provided in Chapter 1, General Provisions, § 1-19.

C. Permit fee schedule and applicable charges

(1) Class 1, land disturbing construction activities upon a site of 1/4 acre up to 1/2 acre \$50.00 Up to 500 cubic yards of fill or up to 1/2 acre of fill area \$50

(2) Class 2, land disturbing construction activities upon a site of 1/2 acre up to 2 acres, any land disturbing construction activity with Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity \$100.00 More than 500 cubic yards of fill or more than 1/2 acre of fill area \$250

(3) Class 3, land disturbing construction activities upon a site of 2 or more acres \$250.00, plus an additional \$5.00 for each 1,000 square feet disturbed or portion thereof in addition to the base 2 acres. Maximum permit fee \$3,000.00.

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(4) Surety Bond - As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

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(5) Charges for costs of construction site inspection, review, and enforcement  
As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by a City representative or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the costs of inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15- 8 0300, and/or Wis. Stat. § 216.46.

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#### D. Erosion and sediment control plan, statement, and amendments

This section is also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8 0300 of the UDO and more specifically, § 15-8.0307, Erosion and Sediment Control Plan, Statement, and Amendments. Fill in excess of 500 cubic yards. If it appears from the application for such filling permit that the amount of fill reasonably required to alter the contour of the subject filling site to approximate grade of the terrain bounding the area to be filled shall exceed 500 cubic yards, the provisions of § 129.2 shall become applicable and govern the issuance of such filling permit. If the estimate of the Inspector shall differ from the estimate of the applicant as to the number of cubic yards required, the estimate of the Inspector shall be controlling.

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#### § 129.2 Topographic and contour map. [Amended 4-15-2014 by Ord. No. 2014-2137]

Whenever the amount of fill required shall exceed 500 cubic yards or the area exceeds 1/2 acre, the applicant shall submit a topographic and contour map at a scale not over 100 feet to the inch, with two-foot contour intervals based on USGS datum. Such map shall show the proposed fill area, proposed final contours, drainage patterns and special drainage devices, if necessary, and all other pertinent information as may be required.

to clearly indicate the orderly development of the fill area including a preliminary plan for the current reasonably anticipated or determined end use of the property, provided, however, in the case of the excavation or the filling in of a building site where a building permit has been issued for the erection of a new building or structure, the alteration or addition thereto and the proposed final grades of such excavation and grading are included in the plat plans as submitted and approved by the Inspector and the total amount of filling required does not exceed 500 cubic yards, a filling permit shall not be required.

**§ 129-3 Definitions,**

For the purpose of this chapter, the following words and phrases are defined and shall be construed to mean, unless the context in which they are used clearly indicates an intent to the contrary, as follows

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**ADVERSE DRAINAGE IMPACTING**

Construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

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**BEST MANAGEMENT PRACTICE or BMP**

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

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**CEASE AND DESIST ORDER**

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

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**CONSTRUCTION**

Any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term "construction" shall include land clearing, grading, excavating, and filling and shall also mean the finished product of any such work or operations.

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**CONSTRUCTION SITE**

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple

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separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan

**CONSTRUCTION SITE EROSION CONTROL PERMIT**

A written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State

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**CONTROL PLAN**

Erosion and sediment control plan for the construction site

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**EROSION**

The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity

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**EROSION AND SEDIMENT CONTROL PLAN**

A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction

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**FILL OR FILLING**

Earth, clay soil, ground, or any mixture or combination of the foregoing Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks, or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

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The act of placing, setting down or depositing solid fill on land for the purpose of or which has the resultant effect of changing the existing contour of or raising the elevation of such land or any part thereof.

**HAZARDOUS SUBSTANCE**

Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources.

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**FILLING PERMIT**

A permit to allow a person to engage in the act of filling on a specified parcel of land  
[Amended 4-15-2014 by Ord. No. 2014-2137]

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**INFLAMMABLE AND COMBUSTIBLE MATERIALS**

Includes oils and oil lights, sweepings from garage floors, barrels, boxes or other containers containing oil or other similar liquids, rags, clothes, paper, shavings, paper or cardboard boxes or cartons, grease, paints, varnish or other similar substances, any of which are likely to be readily inflammable or combustible

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**INSPECTOR**

The City Engineer or designee. The references to the Building Inspector in this chapter are separate and distinct from the references to "Inspector" as provided herein  
[Amended 4-15-2014 by Ord. No. 2014-2137]

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**LAND DISTURBING CONSTRUCTION ACTIVITY**

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes removing vegetative cover, clearing and grubbing, excavating, filling, grading, demolition, excavating, and pit trench dewatering, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, harvesting of trees, and landscaping modifications (if less than 2,000 square feet)

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**LANDOWNER**

Any person or entity holding fee title, an easement, or other interest in property, which allows the person or entity to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property

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**PERFORMANCE STANDARD**

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice

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**PERSON**

Includes any natural person, firm, corporation or partnership

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**POLLUTANT**

Has the meaning given in Wis Stat § 283 01 (13)

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**POLLUTION**

Has the meaning given in Wis Stat. § 281 01 (10)

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**RESPONSIBLE PARTY**

Any person or entity holding fee title to the property or performing services required to meet the performance standards of this chapter through a contract or other agreement or otherwise

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**RUNOFF**

Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow

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**SEDIMENT**

Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location

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**SITE**

The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or is occurring without a permit therefore

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**STOP WORK ORDER**

An order issued by the City of Franklin, which requires that all construction activity on the site be stopped

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**SUPPORTING OR ADJOINING NATURAL RESOURCE FEATURES**

Land disturbing construction activities which are within 100 feet of any natural resource feature listed in § 15-8 0300, Table 4 0100

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**TECHNICAL STANDARD**

A document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method

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**WATERS OF THE STATE**

Has the meaning given in Wis Stat § 281 01(18)

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**SOLID FILL**

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Earth, clay, soil, ground, stones, rocks or broken concrete if the same does not exceed 18 inches in diameter, cinders consisting of the residue from the combustion of coal and not less than 1/8 inches in diameter, or any mixture or combination of the foregoing

**§ 129-4 Land disturbing construction activity Filling regulations.**

**A.** Every person who shall ~~conduct land disturbing construction activities~~ fill upon any lot, tract or parcel of land shall ~~fill do so~~ such land as evenly as possible, and at the end of such ~~filling activities~~ shall level and grade such ~~fill~~ the surface and shall see to it that the top thereof shall be of soil, free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. ~~He or she~~ The person shall keep the surface of such ~~filling~~ land disturbing construction activities free from dust at all times during the filling operations and thereafter

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**B.** Land ~~filling~~ disturbing construction activities shall be operated and maintained in a safe and sanitary manner, rodent free, with no emission of dust or dirt beyond its site boundary lines

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**C.** All materials delivered to the ~~landfill~~ construction site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or onto adjoining properties

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**D.** All ~~fill~~ construction operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily and 7:00 a.m. to 12:00 p.m. on Saturdays, unless otherwise shown ~~and~~ permitted on the application. No such activity shall be permitted on Sundays

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**E.** No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceable enjoyment of their properties. The permittee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles

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**F.** Roadways across the construction site shall be treated to prevent dust nuisances. Roadways to the construction site shall be kept free of sediment, debris, or any other construction materials. The permittee shall perform street sweeping at the permittee's expense upon the order of the City Engineer. At no point shall construction materials be stored in public right-of-way. Roadways to and across the landfill site shall be treated to prevent dust nuisances

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G. No natural drainageways or swales shall be blocked, and fill construction activities shall be placed performed in a manner to prevent formation of water nuisances or insect-breeding ponds

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H. Should any fill construction material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at his or her the permittee's expense upon the order of the City Engineer

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I. Fencing or suitable visual screen as required and/or approved by the Plan Commission City Engineer or designee shall be provided on all sides of the site, unless otherwise required or waived by the City Council Plan Commission upon an application for a site plan approval prior to any land disturbing construction activities on the site

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J. No permittee hereunder nor the owner of the property shall deny the City Engineer, Building Inspector, Police Officer or other authorized officer or employee of the City the right of entry on his or her the person's or entity's property during normal business hours for the purpose of inspection thereof or for the purpose of enforcing or carrying out the provisions of this Chapter

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K. No permittee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector or authorized City officer for a violation of this Chapter. The permittee may appeal such stop order or revocation order to the City Common Council, such appeal to be filed, in writing, with the City Clerk within five days of service thereof of the order. If no appeal is taken within such time, the order shall be final. Such appeal shall be heard within five days, unless a quorum of the Common Council members is not available, and then at such later time as a quorum is reasonably available, in public, at which time the permittee may be represented by legal counsel. The City Common Council may affirm, reverse or modify the order appealed from and shall do so within five days of the hearing. The permittee shall not operate under his or her the permit until the appeal is decided

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L. For permits of 500 cubic yards or more, the permittee shall be required to compact all fill in layers to achieve a density of 3,000 pounds per square foot or to a density approved by the City Engineer or designee to support the final use of the lands. The permittee shall make an effort to maintain the density through proper drainage and ground cover and shall be responsible to maintain the approved density until the final completion of the filling land disturbing construction operation activities. The permittee shall provide professional geo-physical technician daily inspection, or as established by the City Engineer or designee, with sufficient density testing such that the area can be

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certified by a geo-physical engineer as meeting the established density. Weekly reports shall be submitted to the City Engineer or designee for review and approval. Upon completion of the filling operation, the permittee shall submit a full geo-physical report signed and stamped by said engineer.

~~[Added 4-15-2014 by Ord. No. 2014-2137m]~~

~~[Editor's Note: This ordinance also provided for the redesignation of former Subsections L and M as Subsections M and N, respectively.]~~

M. If any person fails to complete or correct his or her the person's landfill-land disturbing construction operation activities in accordance with the terms of his or her the person's permit and the provisions of this Chapter, the City Engineer shall notify the permittee that the City Common Council will hold a public hearing on his or her recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or certified mail at least seven days prior to the hearing. The permittee shall have the right to be heard and to be represented by legal counsel. The City Common Council by resolution may order the work completed or corrected and levy a special assessment charge for the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments. The permittee may appeal to the Circuit Court within 20 days after a copy of the final resolution is served upon him or her the permittee by personal service or certified mail. If no appeal is taken within such time, the assessment special charge shall be final.

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N. The Common Council may, in an individual case, upon recommendation by the Inspector, as a condition to issuance of a filling construction site erosion control permit or at any time as a condition for the continuance of such permit, require compliance by the permittee with any or all of the regulations set forth in this section.

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O. Land disturbing construction activities are also regulated by and subject to the Unified Development Ordinance, including, but not limited to § 15-8-0300 and more specifically, § 15-8-0305, Performance Standards. Fill and filling are also regulated by and subject to the Unified Development Ordinance, including, but not limited to Division 15-8-0300 and more specifically, § 15-8-0305, Control of Erosion, Pollutants and Nuisance During Land Disturbance and Development.

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~~[Added 4-15-2014 by Ord. No. 2014-2137]~~

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**§ 129-5 Inspector; powers and duties.**

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A. There is hereby created the position of Inspector, who shall have such power, authority and duties concerning the inspection, supervision and control of fill or fill/land disturbing construction activities within the City as hereinafter set forth.

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B. Such Inspector shall have complete charge and supervision over the regulation and operation of fill/land disturbing construction activities. He or she shall have at all times full power and authority to require complete compliance with this chapter and with all other rules, regulations and orders for the regulation of fill/land disturbing construction activities and for the enforcement of this chapter, rules, regulations and orders. He or she shall have full power and authority to require of any person engaged in fill/land disturbing construction activities, his or her agent, the person's agent, servants or employees, compliance in all respects with the terms and provisions of this Chapter and all other rules and regulations concerning fill/land disturbing construction activities within the City.

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C. Should the Inspector find that any person engaged in fill/land disturbing construction activities is failing to conform to the provisions of this Chapter or other rules, regulations or orders, he or she may require that the person engaged in land disturbing construction activities fill/land disturbing construction activities immediately and until such time as the person engaged in fill/land disturbing construction activities thereof may conform to this Chapter, rules, regulations or orders. Should the operator, his or her agent, the operator's servants, agents or employees or any other person, bring upon any such land materials which are prohibited by the terms and provisions of this Chapter, the Inspector shall refuse to permit such materials to be unloaded. He or she shall, in the event that any portion or all of such materials shall have been unloaded, cause the operator or the person bringing such materials upon such land to reload the same and remove them from the premises.

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D. The Inspector shall be the representative of the City at any fill/land disturbing construction activity site within the City. He or she may require the ceasing of fill/land disturbing construction activities and the discontinuing of the operations until such time as there may be proper compliance with this Chapter and such other rules, regulations and orders as may be necessary in the control, supervision and regulation of fill/land disturbing construction activities.

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§ 129-6 Persons liable.

The owner, lessee or any other person having possession and control over any fill/land disturbing construction activities operation, be it public or private under, the terms

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of this Chapter, shall be responsible for the actions of ~~his or her~~the person's agents, servants or employees to the same extent as though they were the acts of such principal, and such owner, lessee or other person shall be subject to arrest for violation of the provisions of this Chapter by any of ~~his or her~~the person's agents, servants or employees, and any penalty imposed under the terms of this Chapter may be imposed upon the principal and/or upon the agents, servants or employees of either or both of them

**§ 129-7Public nuisance,**

The depositing on any land of hazardous substance, flammable and/or combustible materials and the depositing of fly ash, foundry refuse and other similar materials of such texture or material that they will be capable of being airborne and the permitting of such depositing shall be and is hereby declared to be a public nuisance

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**§ 129-8Special permit; emergency,**

The Common Council may, however, in any emergency to be determined by it involving the abatement of a nuisance or in the protection of the public health, welfare or safety, permit the dumping of suitable materials even though prohibited by the terms of this Chapter, provided that, in each instance, application therefor shall be made in writing to the Common Council. It shall determine the type of materials to be dumped, the circumstances surrounding the issuance of the permit, the justification therefor and the manner in which such operations may be performed. Any permit issued pursuant to such approval shall be in the nature of a special permit, separated and apart from any other permit issued to the applicant and from any permit for the operation of a ~~dump or fill~~land disturbing construction operation upon the same premises, and shall specifically indicate the type of materials to be dumped, the manner in which the same are to be dumped and shall contain such other specifications and requirements as the Common Council may determine to be necessary and desirable

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**§ 129-9Intent and purpose,**

It is specifically determined by the Common Council that it is the intent and purpose of this chapter to regulate ~~filling operations~~land disturbing construction activities within the City limits on a basis whereby such operation may be readily controlled, supervised and regulated in the protection of the public health, welfare and safety.

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**§ 129-10Violations and penalties,**

A. Any person in violation of this Chapter shall be liable to the City and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the City and loss or damage sustained by the City by reason of such violation. Any person or municipality violating the provisions of this chapter shall be liable for any or all damages or expenses sustained or incurred by the city by reason of any fire occurring in any such public or private dumping ground or other place within the city caused by any dumping referred to in this chapter, together with any expenses which the city may incur in enforcing any of the terms or provisions of this chapter.

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B. In addition to the suspension or revocation of any license or permit granted under this Chapter, any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

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# Chapter 165

## Land Disturbances TO BE REPEALED

[HISTORY: Adopted by the Common Council of the City Of Franklin 8-5-1997 by Ord. No. 97-1461 as Sec. 13.14 of the 1997 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Filling and grading — See Ch. 129.

License and permits — See Ch. 169.

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### § 165-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **CONTROL MEASURE**

A practice or combination of practice to control erosion and attendant pollution.

#### **CONTROL PLAN**

A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval.

#### **EROSION**

The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

#### **LAND DISTURBANCE**

Any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses, such as planting, growing, cultivating and harvesting crops; growing and tending gardens; and harvesting trees.

### § 165-2 Standards.

All sites on which land disturbances take place, whether or not subject to the permit process of this chapter, must meet these standards:

- A. The area of bare soil exposed at any one time shall be kept to a minimum by conducting activities in sequence.
- B. Disturbed ground left inactive for 15 or more days shall be stabilized by seed, mulch or other equivalent measure.
- C. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if determined practical by the City Engineer.
- D. All control measures required to comply with this chapter shall be based upon accepted engineering practice as identified by the City Engineer. The City Engineer and/or the City Plan Commission may impose additional standards upon a site to minimize air and water pollution and erosion.

### § 165-3 Permit required.

No landowner or land user in the city may commence, allow or continue a land disturbance subject to this chapter without receiving prior approval of a control plan for the site and a permit from the City Engineer, unless the owner or land user has another permit for activities necessarily involving land disturbance, e.g.,

subdivision development, fill permit, zoning permit, special use permit, etc., and construction of a home. The landowner or land user controlling or using the site and desiring to undertake a land-disturbing activity subject to this chapter shall submit an application for a permit and control plan review and pay an application fee to the City Engineer as provided in Chapter 169, Licenses and Permits.

§ 165-4 **Control plan.**

A. A control plan for land-disturbing activities covering more than two acres shall consist of the following:

- (1) Existing site map.
  - (a) A map of existing site conditions showing the site and immediately adjacent areas, including:
    - [1] Site boundaries and adjacent lands which identify site location.
    - [2] Lakes, streams, wetlands, channels, ditches and other watercourses and immediately adjacent to the site.
    - [3] One-hundred-year recurrence interval floodplains, flood-fringe areas and floodways and conservancy areas.
    - [4] Vegetative cover.
    - [5] Locations and dimensions of utilities' structures, roads, highways and paving.
  - (b) The City Engineer may request additional data.
- (2) Plan of final site conditions. A plan of final site conditions showing the site changes.
- (3) Site construction plan.
  - (a) A site construction plan, including:
    - [1] Locations and dimensions of proposed land-disturbing activities.
    - [2] Locations and dimensions of temporary soil or dirt stockpiles.
    - [3] Schedule of anticipated starting and completion date of each land-disturbing activity.
    - [4] An erosion control plan statement with map shall be submitted to describe the site and erosion controls, including the site development schedule that will be used.
  - (b) The City Engineer may request additional data.

B. A control plan statement for land-disturbing activities covering less than two acres shall consist of the following:

- (1) A map to existing site conditions showing the site and immediately adjacent areas, including:
  - (a) Existing elevations at property corners.
  - (b) Drainage patterns at site and immediately adjacent areas.
- (2) An erosion control plan statement with map shall be submitted to describe the site and erosion controls, including the site development schedule that will be used.
- (3) The City Engineer may request additional data.

**§ 165-5 Review of control plan.**

- A. After receipt of the application, control plan or control plan statement and fee, the City Engineer shall review the application and control plan to determine if the plan or statement is adequate to meet the purposes of this chapter. The City Engineer shall approve the plan with conditions, request additional data, issue or deny the permit.
- B. An applicant aggrieved by the decision of the City Engineer may appeal the decision to the Plan Commission.

**§ 165-6 Permits.**

Permits shall be valid for a period of one year from the date of issuance or as otherwise set forth by the City Engineer, whichever is longer. The City Engineer may extend the period for up to an additional 180 days. The City Engineer may require additional control measures as a condition of the extension.

**§ 165-7 Enforcement.**

- A. Whenever this chapter, the approved plans or permit are not complied with, a stop-work order may be served on the violator or his or her representative, and a copy shall be posted at the site. The stop-work order shall not be removed, except by written order of the City Engineer. However, after issuance of a stop-work order, the violator or his or her representative may conduct work on the site for the purpose of bringing the site into compliance with this chapter.
- B. Fourteen days after issuance of a stop-work order with continued noncompliance shall authorize the city to perform or contract with others to perform the necessary work and materials to bring the project into compliance.
- C. The costs shall be billed to the property owner and in default of payment within 45 days the amount shall be entered on the tax roll and collected as a special assessment.

**§ 165-8 Violations and penalties.**

In addition to the suspension or revocation of any license or permit granted under this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.





DRAFT  
Proposed Construction Site Erosion Control Permit Application

**City of Franklin**  
Engineering Department

<b>CONSTRUCTION SITE EROSION CONTROL PERMIT APPLICATION</b> 9229 W LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-7510 Fax (414) 425-3106 <b>Application Forms and Handouts can be found at <a href="http://www.franklinwi.gov">www.franklinwi.gov</a></b>			<i>For Office Use Only:</i> <b>Permit No.</b>  <b>Date of Issue:</b>  <b>Date of Expiration:</b>
Landowner(s) / Applicant			Contact Name / Title
Mailing Address	City	Zip	Office Phone
Email Address			24/7 Cell Phone
<b>Contractor</b>			Contact Name / Title
Mailing Address	City	Zip	Office Phone
Email Address			24/7 Cell Phone
Location of Work (Street Address)			Tax Key Number(s)
Description of Work			
Area of Disturbance (Acres)		Volume of Material (Cubic Yards)	
<b>Natural Resource Feature(s) Nearby?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <small>See City of Franklin Property Viewer and/or WDNR Surface Water Data Viewer for approximate natural resource feature locations See City of Franklin Unified Development Ordinance 15-4 0100</small>		<b>New Impervious Surface Added</b> (Square Feet) <small>i e - pavement, roof, gravel, etc</small>	
		<b>Floodplain or Floodway on Property?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Estimated Starting Date</b> mm/dd/yyyy    ___/___/20___		<b>Estimated Ending Date</b> mm/dd/yyyy    ___/___/20___ <small>All work shall be completed without unnecessary delay</small>	

PERMIT APPLICATION FEE SCHEDULE		
Class	Fee	Description
1	\$50	1/4 acre up to 1/2 acre disturbed
2	\$100	1/2 to 2 acres disturbed, Supporting or Adjoining Natural Resource Features (see UDO §15-8 0302A 6), and Adverse Drainage Impacting (see UDO §15-8 0302A 7)
3	\$250 + \$5*	2 or more acres disturbed, *\$5 00 for each 1,000 square feet disturbed or portion thereof in addition to the base 2 acres
<b>Acknowledgement and Agreement to Pay for Construction Site Review, Inspection, and Enforcement:</b> By submitting this permit application, the applicant and their agents, servants, or contractors agree to comply with all applicable codes, statutes, ordinances, and with all the conditions of this permit Further, the applicant and their agents, servants, or contractors have reviewed and understand Franklin Municipal Code Chapter §129 and Division 15-8 0300 of the City of Franklin Unified Development Ordinance (UDO) pertaining to erosion and sediment control and shall implement the erosion and sediment control plan (control plan), control plan statement, best management practices, final stabilization, and/or restoration as applicable to the permitted activity and as may be required by any permit granted for this project		
The landowner(s) further grants the right of entry onto the property which is the subject of this Permit Application, to the City of Franklin City Engineer or designee, for the purpose of inspecting, reviewing, and enforcing compliance with Franklin Municipal Code Chapter §129 and Division 15-8 0300 of the City of Franklin Unified Development Ordinance (UDO) The landowner(s) grant this authorization even if		

the property has been posted against trespassing pursuant to Wis Stat §943.13

As a condition of approval and issuance of the permit, the City Engineer or designee may require construction site inspection, review, and enforcement by City representatives or other personnel on behalf of the City. If required by the City Engineer or designee, the applicant shall be responsible for any and all charges related to the inspection, review, and enforcement of the construction site plus five (5) percent for administration and overhead. These inspection, review, and enforcement charges are in addition to any permit fees or surety that may be required.

The construction site inspection is for erosion control and the frequency is at minimum once per month. Depending on the conditions of the construction site the inspection frequency may be increased. City completed construction site erosion control inspections shall not be used as the applicant's inspections as required under Franklin Municipal Code §129, UDO §15-8.0300, and §216.46, Wis Stats.

2022-2023 Construction Inspection Rates for reference only (mileage based on City rate)

- Construction Supervisor - \$147.00/hour
- Tech I - \$77.00/hour
- CADD Tech IV - \$114.00/hour
- Tech III - \$109.00/hour
- Survey Crew (2-person) - \$210.00/hour
- Tech II - \$95.00/hour
- Survey Crew (1-person) - \$148.00/hour

By signing below, the applicant hereby acknowledges and certifies that the information provided by the applicant upon and with this Permit Application is, to the best of their knowledge and belief, true, accurate and complete. Furthermore, by signing below the applicant hereby understands and agrees to pay all charges related to construction site inspection, review, and enforcement plus five (5) percent for administration and overhead.

<b>Printed Name (Applicant)</b>	<b>Title</b>
<b>Signature (Applicant)</b>	<b>Date</b>

City to Complete Below

<b>PERMIT FEE CALCULATION</b>	
Base Application Fee <input type="checkbox"/> Class 1 <input type="checkbox"/> Class 2 <input type="checkbox"/> Class 3	\$ _____
_____ additional increments of 2 acres/500 cubic yards x \$50	\$ _____
<b>Permit Fee to Collect</b>	\$ _____

<b>SURETY AMOUNT</b> \$ _____	
<input type="checkbox"/> Not Required	<input type="checkbox"/> Letter of Credit- Date / Institution
<input type="checkbox"/> Cash/Check- #/Institution	<input type="checkbox"/> Bond- #/Institution

<b>ATTACHMENTS</b>	
<input type="checkbox"/> Erosion and Sediment Control Plan	<input type="checkbox"/> WDNR Permit # _____ (if applicable)
<input type="checkbox"/> Site Grading Plan	<input type="checkbox"/> Other:

<b>PERMIT APPROVAL BY PERMITTING AUTHORITY</b>	
The foregoing application is hereby approved and permit issued by the Permitting Authority subject to full compliance by the Applicant with all provisions and conditions stated herein and on the follow pages hereof and all attachments hereto.	
By Kyle Baker	Title Engineering Technician
Signature	Date

**General Permit Conditions:**

- 1 All conditions of this permit include, but are not limited to, the applicability criteria in Franklin Municipal Code Chapter §129 and UDO §15- 8 0300
- 2 Each Construction Site Erosion Control Permit Application must include an erosion and sediment control plan in accordance with UDO §15- 8 0305 and UDO §15- 8 0307, except as set forth below
  - a In lieu of a control plan, a Class 1 applicant may submit a plat of survey depicting the area and describing any volume of and the nature of the land disturbing construction activity, and the restoration to be performed, if any, together with such other information as reasonably required by the City Engineer or designee (see UDO §15- 8 0306A)
  - b In lieu of a control plan, an Adverse Drainage Impacting Class 2 applicant may submit an erosion and sediment control plan statement, which shall briefly describe the site, including a site map, the best management practices that will be used, and the site development schedule (see UDO §15-8 0307B)
- 3 An application may have to include additional information (see UDO §15-8 0306C) and any permit granted may include conditions, including, but not limited to a form of surety bond or letter of credit (see UDO §15-8 0306D)
- 4 Permit Requirements All permits shall require the responsible party to
  - a Notify the City Engineer or designee within 48 hours of commencing any land disturbing activity
  - b Notify the City Engineer or designee of the completion of installation of any control measures within three days after their installation
  - c Obtain permission in writing from the City Engineer or designee prior to modifying the control plan
  - d Install all control measures as identified in the approved control plan
  - e Maintain all road drainage systems, storm water drainage systems, control measures, and other facilities identified in the control plan and document repairs in a site erosion control log
  - f Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities and document repairs in a site erosion control log
  - g Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs and undertake such other or additional inspecting and activities as recommended in the Storm Water Construction Technical Standards prepared by the Wisconsin Department of Natural Resources
  - h Maintain and repair all erosion control measures within 24 hours of inspection, or upon notification by the City
  - i Conduct any filling activity so that at the end of each day the surface shall be graded to drain and be free from broken concrete and relatively free from gravel, and that the upper four inches thereof shall be of soil suitable for growing grass. The surface of said filling shall be kept free from dust at all times during the filling activity and thereafter
  - j Allow the City Engineer and/or designee and/or City representatives to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan
  - k Keep a copy of the approved control plan on the site
  - l Sweep or clean any material that was tracked offsite as directed by the City Engineer or designee
  - m Perform dust control operations as directed by the City Engineer or designee
- 5 If a land disturbing construction site activity involves 1 or more acres of land disturbance, a permit is additionally required from the Wisconsin Department of Natural Resources prior to the commencement of such activity
- 6 This permit is separate from any erosion control fees associated with building permits
- 7 If work is proposed within Public Right-of-Way, a permit to construct, maintain or repair infrastructure within Public Right-of-Way is required for any work in the Public Right-of-Way. Application forms can be found at [www.franklinwi.gov](http://www.franklinwi.gov).
- 8 The Permittee agrees to indemnify and hold harmless the City, its employees and its agents, from any cost, claim, suit, liability and/or award which might come, be brought, or be assessed, because of the issuance or exercise of this permit or because of any adverse effect upon any person or property which is attributed to the partially or entirely completed works of the Permittee. This responsibility applies both when the site is attended and during off-hours, any holiday, and the hours of night when the site is unattended
- 9 Call before you Dig. Permittee is responsible for notifying **Diggers Hotline 1-800-242-8511** and having all existing utilities within the right-of-way identified prior to construction. All utilities shall be located within three feet of the right-of-way limits unless specific dimensions are shown on the attached plans
- 10 Upon completion of the work, the Permittee shall file a written notice to the City of Franklin Engineering Department along with a record drawing of the completed work. Final approval and release shall not be granted until the City of Franklin grants approval
- 11 The permit does not transfer any land, nor give, grant or convey any land right, right in land, nor easement
- 12 The City Engineer reserves the right to revoke this permit at any time if in its judgment, it is in the best interest of the City of Franklin to do so. The Permittee is still under obligation to make complete restorations
- 13 Municipal citations may be issued for failure to comply with the terms of this permit per Franklin Municipal Code Chapter §129
- 14 Failure to comply with the terms of this permit may result in additional actions pursuant to Franklin Municipal Code Chapter §129-4 and/or §129-10



Special Permit Conditions:

END OF PERMIT CONDITIONS

<b>PERMIT CLOSEOUT AND RELEASE OF SURETY</b>	
Upon Completion of the permitted work please contact Kyle Baker, (414) 425-7510, <a href="mailto:kbaker@franklinwi.gov">kbaker@franklinwi.gov</a> to review and process the the permit closeout and release of any surety	
<b>COMMENTS ON CLOSEOUT</b>	
<input type="checkbox"/> Work appears to have been completed satisfactorily and all surety may be released <input type="checkbox"/> Work was not completed satisfactorily and all/some of surety is kept Describe	
Final Inspection By	Title
Signature	Date



<i>Office Use Only</i>	
Permit No. _____	Address: _____
Issue Date: _____	Owner: _____
Expire Date: _____	WIDNR Permit No. _____

**FILL/SOILS DISTURBING PERMIT APPLICATION**

*This permit application and permit are authorized by Division 15-8 0300 of the City of Franklin Unified Development Ordinance ("UDO") Please call the Engineering Dept at 414-425-7510 with any questions regarding this application*

**Classes of Applications:**

Class	Fee	Nature of land disturbing construction activity
1	\$50	1/4 to 1/2 acres disturbed and/or 25 to 100 cu. Yds. fill or excavation
2	\$100	1/2 to 2 acres disturbed and/or 100 to 500 cu. yds. fill or excavation; Supporting or Adjoining Natural Resource Features (see UDO §15-8.0302A.6); and Adverse Drainage Impacting (see UDO §15-8.0302A.7)
3	\$250 +\$50*	2 or more acres disturbed and/or 500 or more cu. yds. fill or excavation; *\$50 for each 500 cu. yds. or portion thereof in addition to the base 500 cu. yds.

Class \_\_\_ at fee amount of \$ \_\_\_ plus \_\_\_ additional 500 cu. yds. at \$50 = \$ \_\_\_\_\_ Total Fee Paid

**Application Notes:**

- Each Fill/Soils Disturbing Permit Application must include an erosion and sediment control plan (see UDO §15-8.0307), except as set forth below.
- The fill site plan shall include existing and proposed contours, site cross-sections at a minimum of 100-foot intervals or closer on smaller sites, and perimeter down sloping no greater than 4:1.
- In lieu of a control plan, a Class 1 applicant may submit a plat of survey depicting the area and describing any volume of and the nature of the land disturbing construction activity, and the restoration to be performed, if any, together with such other information as reasonably required by the City Engineer or designee (see UDO §15-8.0306A.).
- In lieu of a control plan, an Adverse Drainage Impacting Class 2 applicant may submit an erosion and sediment control plan statement, which shall briefly describe the site, including a site map, the best management practices that will be used, and the site development schedule (see UDO §15-8.0307B.).
- An application may have to include additional information (see UDO §15-8.0306C.) and any permit granted may include conditions, including, but not limited to a form of surety bond (letter of credit) (see UDO §15-8.0306D.).
- If a land disturbing construction site activity involves 1 or more acres of land area, a permit is additionally required from the Wisconsin Department of Natural Resources prior to the commencement of such activity.

**Applicant Agent/Owner to Complete:**

**Nature of land disturbing construction activity:**

Describe: (fill, grade, etc.) \_\_\_\_\_

Land Area Involved: (acres) \_\_\_\_\_

Volume of Material: (cu. yds.) \_\_\_\_\_

Location(s) of Fill Source: \_\_\_\_\_

Natural Resource Feature(s) Within 100 Feet: [ ] YES [ ] NO

Proposed Start Date: \_\_\_\_\_

Proposed Completion Date: \_\_\_\_\_

I have reviewed and understand Division 15-8.0300 of the City of Franklin Unified Development Ordinance pertaining to erosion control and I shall implement the control plan, control plan statement, best management practices, and/or restoration as applicable to my activity and as may be required by any permit granted to me for this project.

I further grant the right of entry onto the property which is the subject of this Permit Application, to the City of Franklin City Engineer or designee, for the purpose of inspecting and monitoring for compliance with Division 15-8.0300 of the City of Franklin Unified Development Ordinance

I hereby certify that the information provided by me upon and with this Permit Application is, to the best of my knowledge and belief, true, accurate and complete.

**Property & Location:**

Street Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Tax Key #: \_\_\_\_\_

**Owner(s)**

Name: \_\_\_\_\_  
Street Address \_\_\_\_\_  
City/State/Zip \_\_\_\_\_  
Tax Key #: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Date: \_\_\_\_\_

**Applicant /Agent**

Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Tax Key #: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

**FILL/SOILS DISTURBING PERMIT**

The above Fill/Soils Disturbing Permit Application is hereby conditionally approved upon all of the above statements and terms and the terms and provisions of Division 15-8.0300 of the City of Franklin Unified Development Ordinance, including, but not limited to the requirement of the Owner and any Applicant Agent to notify the City Engineer or City Engineer's designee within 48 hours of the commencement of any land disturbing construction activity, and all other applicable laws. This approval is also subject to those conditions as may be set forth below.

**Conditions of Approval:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Approved By:**

\_\_\_\_\_  
**Franklin City Engineer or Authorized Representative**

\_\_\_\_\_  
**Date**



For reference  
 Engineering and SWMP Review  
 Application - no fee

City of Franklin  
 Engineering Department

<b>ENGINEERING AND STORM WATER          MANAGEMENT PLAN REVIEW APPLICATION</b> 9229 W LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-7510 Fax (414) 425-3106 Application Forms and Handouts can be found at <a href="http://www.franklinwi.gov">www.franklinwi.gov</a>		APPLICATION DATE _____ SWMP DATE _____
<b>PROJECT INFORMATION [print legibly]</b>		
<b>APPLICANT [FULL LEGAL NAMES]</b>		<b>APPLICANT IS REPRESENTED BY [CONTACT PERSON]</b>
NAME		NAME
COMPANY		COMPANY
MAILING ADDRESS		MAILING ADDRESS
CITY/STATE	ZIP	CITY/STATE ZIP
PHONE		PHONE
EMAIL ADDRESS		EMAIL ADDRESS
<b>PROJECT PROPERTY INFORMATION</b>		
PROPERTY ADDRESS		TAX KEY NUMBER(s)
PROPERTY OWNER		PHONE
MAILING ADDRESS		EMAIL ADDRESS
CITY/STATE	ZIP	DATE OF COMPLETION
<b>APPLICATION MATERIALS</b>		
<p>The following materials must be submitted with this application form. *incomplete applications and submittals cannot be reviewed</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> This application form accurately filled out with signature or authorization letters (see below)</li> <li><input type="checkbox"/> Three (3) collated hard copies of the construction plans (see <a href="#">City of Franklin Design Standards and Specifications</a> for requirements)</li> <li><input type="checkbox"/> One (1) collated hard copy of the Storm Water Management Plan (see Division 15-8 0600 of the City of Franklin Unified Development Ordinance pertaining to Storm Water Management Plan requirements)             <ul style="list-style-type: none"> <li><input type="checkbox"/> Electronic storm water management modeling files</li> </ul> </li> <li><input type="checkbox"/> One (1) copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit (electronic is acceptable)</li> <li><input type="checkbox"/> Four (4) hard copies of the Plat of Survey (see <a href="#">Plat of Survey requirements</a>)</li> <li><input type="checkbox"/> Email or flash drive with all plans/submittal materials</li> </ul>		
<b>APPLICABLE FEES AND CHARGES</b>		
<p>There is no base fee for submitting an application for review. The City of Franklin Engineering Department utilizes consultant engineering services or other personnel for Storm Water Management Plan (SWMP) review and related construction plan reviews. The applicant shall be solely responsible for any charges related to said reviews. The 2022 hourly rates for the City's consultant engineering services typically vary between \$100.00/hour to \$210.00/hour depending on the extent and complexity of the review. The charges will be the actual cost for the SWMP review and related construction plan reviews. Review frequency and length varies on a project-by-project basis and the hourly rates noted above are for reference only for the applicant's use in estimating potential charges.</p>		

**AKNOWLEDGEMENT AND SIGNATURES**

The applicant and property owner(s) hereby certify that (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge, (2) the applicant and property owner(s) has/have read and understand all information in this application, (3) the applicant and property owner(s) understand that any and all charges and fees related to Storm Water Management Plan review and related construction plan reviews associated with this application are the responsibility of the applicant, and (4) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7 00 a m and 7 00 p m daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis Stat §943 13

*(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).*

I, the applicant, certify that I have read the above page detailing the requirements for Engineering and Storm Water Management Plan and related construction plan submittals and understand that incomplete applications and submittals cannot be review

PROPERTY OWNER SIGNATURE		APPLICANT SIGNATURE	
NAME & TITLE	DATE	NAME & TITLE	DATE
PROPERTY OWNER SIGNATURE		APPLICANT REPRESENTATIVE SIGNATURE	
NAME & TITLE	DATE	NAME & TITLE	DATE



# Land Disturbance Permits and Erosion Control Inspection

# Land Disturbance Permits - Franklin

- Current fill/soil disturbing permit application fees
  - \$50 – ¼ to ½ acres disturbed and/or 25 to 100 cubic yards fill or excavation
  - \$100 – ½ to 2 acres disturbed and/or 100 to 500 cubic yards fill or excavation
  - \$250 – 2+ acres disturbed and/or 500+ cubic yards fill or excavation
    - +\$50 for each 500 cubic yards in addition to the base 500 cubic yards
- Proposed ordinance and permit application are not changing the permit application fees, but modifying the calculation and adding a maximum fee.
  - Modifying fee calculation and maximum fee will require revision UDO 15-8-0300 as well
  - Revision of permit application fees to be based of area of disturbance only
    - Cubic yards are nearly impossible for City staff to quantify or verify quickly
    - Area of disturbance is the critical factor as that will impact the amount and intensity of erosion control
- Recent permit fees using current method
  - Cape Crossing - \$8,200
  - Sleep Inn Mainstay - \$800
  - Seasons - \$5,200
  - Saputo - \$6,400
  - HSA - \$2,000
  - Wangard - \$3,200
  - PVR Ph2 - \$3,700

# Land Disturbance Permits – other municipalities

Municipality	Type	Base Fee	Additional fee	Surety	Permit fee for 20 acre land disturbance	Inspection	Storm water permit fee
Greenfield	All	\$ 150.00	\$5/1000 SF (after 7200 SF)	Case by case	\$ 4,470.00	City staff or consultant perform inspections weekly. Escrow deposit required for these charges. In Municipal Code/Ordinance	Actual cost for Greenfield for all work incurred in connection with the review of the submittal + admin fee Have Storm Water Utility
Muskego	Residential	\$ 150.00	\$10/acre (after 4 acres) \$2000 maximum	Case by case	\$ 2,000.00	City staff will inspect sites monthly No charges to developer	\$20 minimum engineering review fee
	Comm./Indust.	\$ 300.00	\$8/acre, \$2000 maximum	Case by case	\$ 2,000.00		
Pewaukee	All	\$ 50.00	Actual cost for Pewaukee for all work incurred in connection with the review of the submittal	\$2000-5000 LOC or cash bond	Unknown	Consultants perform inspections weekly Charges passed on to developer. Invoices sent to developer with nominal admin fee added. In Municipal Code/Ordinance	\$50 base fee + actual cost for pewaukee for all work incurred in connection with the review of the submittal + admin fee Have Storm Water Utility
Oconomowoc	Residential	\$ 150.00		LOC, cash bond, or escrow for 110% of erosion control grading, and restoration work	N/A	City staff or consultant perform inspections, unknown frequency. Charges for inspections are the responsibility of the permit holder In Municipal Code/Ordinance	Actual cost for Oconomowoc for all work incurred in connection with the review of the submittal + admin fee
	Comm./Indust.	\$ 175.00	\$75/acre after		\$ 1,600.00		
New Berlin	Residential	\$205/lot	\$2450 maximum	\$1000 deposit per lot	N/A	Consultants perform inspections 2 times per month and after 1/2" + rain events. Charges passed on to developer using construction management, developer's deposit.	No fee Have Water Resource Management Utility
	Comm./Indust.	\$225/lot	\$5/1000 SF, \$2450 maximum	\$1000 deposit per lot	\$ 2,450.00		
Oak Creek	All	\$ 60.00	\$4/1000 SF (after 20000 SF)	Case by case	\$ 3,464.80	City staff perform inspections monthly included with permit fee	\$505. Have a Storm Water User Charge
Glendale	All	\$ 225.00	\$125/acre, 40% admin fee	Case by case	\$ 3,640.00	Unknown inspection frequency and charges.	Reviewed by consultants. Fees unknown
Mukwonago	Residential	\$ 175.00		Case by case	N/A	Consultants perform weekly inspections. Charges passed on to developer. unknown method	Storm water management application Fees unknown
	All other	\$ 205.00	\$5/1000 SF, \$2250 maximum	Case by case	\$ 2,250.00		
Brookfield	All	\$278/building	\$7.35/1000 SF, \$2250 maximum	LOC required	\$ 2,250.00	City staff perform inspections monthly Unknown frequency and charges.	Storm water management application Fees unknown.
Franklin	All	\$50-\$250	\$50/500 CY (after 500 CY)	Case by case	Varies based on CY. Typical site this size ranges \$2,000-8,200	Consultants perform monthly inspections. Charges invoiced to developer + admin fee	Actual cost for Franklin for all work incurred in connection with the review of the submittal + admin fee.

# Inspection frequency, time, and charges

- Currently 3 consulting firms perform inspection for the City
  - GRAEF
  - raSmith
  - Ruckert & Mielke
- City is required to perform monthly inspections of permitted construction sites per MS4 permit
  - Prior to 2022 these inspections were performed weekly plus every rainfall event of 0.5-inches or more
  - Currently perform monthly inspections
- Inspection time varies depending on site, larger sites generally require more time for inspection
  - Rates for inspectors range \$95.00-\$109.00/hour
  - A typical site throughout the City is approximately 1.5-2.5 hours/inspection (\$143.00-\$273.00)
    - HSA development
    - Knollwood Legacy Apartments
    - Pleasant View Reserve subdivision
    - Saputo
    - Seasons at Franklin
    - Wangard Oakwood Industrial
    - Kids Connection
    - Custom Fabricating

# Recommendation for Council consideration

- Repeal MC Chapter 165
  - No longer in line with UDO or permit related to land disturbances. Repeal and recreation of Chapter 129 will render this ineffective
- Repeal, recreate, and rename Chapter 129
  - Update definitions, requirements, permit for uniformity with the UDO, Wis. Administrative Code, and City permitting
  - Add responsibility of applicant to pay for charges related to site inspection, review, enforcement to Chapter 129 and permit application
    - This is what has been historically done in the City, but it is not in the code or on the permit
  - Revise classes of permit applications (1-3) to be based off area of disturbance only, no longer cubic yardage
    - Area is much easier to verify and quantify
    - Class 1 remains ¼ to ½ acres, \$50
    - Class 2 remains ½ to 2 acres, \$100
    - Class 3 remains 2+ acres, \$250
    - Additional fee \$5 per 1000 SF beyond 2 acres
  - **Maximum permit fee of \$3,000**
    - This would fall in the range of what other municipalities would have for a permit fee or maximum fee for larger sites (this maximum would apply for any site disturbing 15 acres or more)

APPROVAL	COMMITTEE OF THE WHOLE	MTG. DATE February 6, 2023
Reports & Recommendations	<b>An Ordinance to Amend §207-21 of the Municipal Code regarding Special Assessments of Water Main Laterals</b>	ITEM NO. <i>E.</i>

**BACKGROUND**

*[This item was brought to the Common Council on October 18, 2022 (Item G 9) and the item was tabled to be brought back and discussed at this Committee of the Whole meeting where there would be more time to discuss Below is the text presented in the October 18, 2022 council action All options are provided again for discussion ]*

There are several water main projects currently in the works where residents will be asked if they want to connect to the water system. Connection to the water system is generally optional (note that connection to the sanitary sewer is not optional). For those that want water service, they will tell us where they prefer the tap and service lateral. Other property owners may have no intention of ever connecting to our water system, or have a desire to, but not at this time.

Historically, the City has discouraged/prohibited installation of water laterals (service connections) for homes that did not have intention of immediately connecting. Copper laterals tend to go bad if left in the soil, unused. With today’s non-corrodible plastic-based materials, the old concerns have little merit.

Considering the new pipe materials, Staff would prefer to install water laterals for all homes as it would eliminate future road cuts to install taps and laterals. However, such a decision would make projects more expensive at the time of construction without ability to recoup payment from assessments. Staff suggests that the lost cost of unused laterals is a better situation than continued road repairs as homes do eventually make connections.

Staff would like guidance for a consistent method on water main projects. Current water main projects in the works are located on S. Lovers Lane (Water Tower project), S. Lovers Lane (Phyllis-Herda), W. Minnesota Avenue, and ~~W. Ryan Road~~. Options are discussed below:

The Franklin Municipal Code Sections §207-15 and §207-20 provide guidelines for utility assessments. § 207-21 discusses assessments for water main laterals.

*The assessment for water main laterals installed from the main to the private property line shall be based upon accepted contract bid price quotation plus 16% for administrative, engineering and inspection fees. The owner, his or her agent or heirs of such property shall be assessed a lump sum for each lateral installed.*

**OPTIONS & ANALYSIS**

**Option 1: Status Quo. Do not install laterals for future use.**

Although this is the most fiscally advantageous option for the City or Developer during the construction of a water main project, this is more expensive for the property owners should they decide to connect later as the future cost for a single project has the sole burden of contractor mobilization, construction site costs, road repair, etc.

Invariably, future road patches over the future connections have increased road maintenance issues.

**Option 2: Install taps and laterals for all homes/buildings regardless of intent to initially connect to the water system.**

This option is the most expensive up-front option for the City and developers as costs of projects will include the additional laterals. Even for properties that want to connect and reimburse the City, many will choose City-finance options.

Costs will vary from project to project, but as an extreme case, it has been estimated that the new water main on S. Lovers Lane would have 26 laterals at a cost of \$148,000. It is conceivable that none of the Lovers Lane homes would initially connect and many of homes will “never” connect. Likewise, the Ryan Road water main has 12 homes that have previously expressed a desire to not connect and the Minnesota and Phyllis-Herda water mains may have at least one property not initially connect. Note that water laterals beneath S. Lovers Lane and within the Wisconsin Department of Transportation right-of-way are significantly more expensive than same side laterals of a City street/ right-of-way like W. Ryan Road and W. Minnesota Avenue.

Inspection services may flag the affected parcels in their software and charge impact connection fees at the future time of connection. These fees tend to increase over time.

**Option 2A: Each property would be specially assessed for cost of constructing the lateral using existing assessment methods.**

The City has an assessment process in place and the Finance Department would track these assessments. Depending on the water main financing method, the property owner may/may not be assessed for the water main. If City funded, the property owner is assessed. If developer financed, the assessment would only occur if connection happens within 10-years.

There are deferment options that can defer payment up to 10-years. Deferments end earlier if connection is made or property is sold.

**Option 2B: Each property would be specially assessed for cost of constructing the lateral using a proposed indefinite assessment method.**

The indefinite deferment would end when the property chooses to make connection to the public water system. If no connection were ever made, no collection of a special assessment will ever occur.

Projects would only include laterals to properties with existing structures (homes) or lots small enough to make an educated guess at a convenient future location. Large parcels that could have a home placed in a variety of locations would not have a lateral installed. This would not preclude Staff from conferring with property owners for desired locations of laterals.

**Option 2C: Each property would be specially assessed for cost of constructing the lateral and an indefinite deferment would end when property is sold.**

The indefinite deferment would end when the property chooses to make connection to the public water system or property ownership is transferred. This deferment could extend for many decades until a property ownership is transferred, but would eventually be paid.

The Board of Water Commissioners (BOWC) discussed this issue on September 20, 2022. **The BOWC recommended that Common Council adopt option 2A** where each property would be specially assessed for cost of constructing the lateral using existing assessment methods.

BOWC noted that Staff would need to use judgment on properties that could be split up or are difficult to tell where a home or business might be located. Staff suggests that laterals be only installed for “nondivisible lots” as consistent with other descriptions elsewhere in §207-20 Assessment for water mains. Divisible properties, of any zoning would not have laterals installed at the time of water main construction. In addition, the lots should be developable so services aren’t extended to properties that are predominantly full of wetlands or other particular features.

The BOWC also recommends to Common Council to redefine the calculation of assessment for a water lateral. This calculation is found in §207-21 Assessment for a water main lateral. The current calculation is the actual bid price + 16% for administrative, engineering, and inspection fees. BOWC would like to average the cost of the laterals on a project so there is no benefit or penalty for the location of the water main in relation to someone’s home. Staff proposes that the bid costs of all laterals be averaged with a 16% increase for administrative, engineering, and inspection fees\.

BOWC also asked Staff to verify with the Public Service Commission (PSC) if there are any special requirements for assessment of water laterals. Staff received an answer from the PSC on September 22, 2022. *“It is PSC staff’s opinion that it makes sense from a practical perspective to install the utility owned portion of the service lateral at the same time as the main. Wis Stat 66 0911 seems to be consistent with Schedule X-2.A of Franklin’s water tariff. If Franklin plans to change its past policy and to now install service laterals as part of special assessed main projects then Franklin should pass a resolution stating its new policy.”*

Note that average cost method is allowed per State Statute § 66.0911

*66.0911 Laterals and service pipes. If the governing body by resolution requires water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city, village or town or under a city, village or town contract, a record of the cost of constructing the laterals or service pipes shall be kept and the cost, or the average current cost of laying the laterals or service pipes, shall be charged and be a lien against the lot or parcel served.*

Considering the BOWC recommendation to Common Council, and the response from the PSC, the proposed language for §207-21 Assessment for water main lateral would be:

**All non-divisible, developable lots shall have a water main lateral installed when a water main is extended.** *The assessment for water main laterals installed from the main to the private property line shall be based upon **the average cost of the accepted contract bid price quotations of all water main laterals on the project plus 16% for administrative, engineering and inspection fees.** The owner, his or her agent or heirs of such property shall be assessed a lump sum for each lateral installed.*

Note that none of this affects the property’s owner right to choose to connect or not to the new water main.

#### **FISCAL NOTE**

One of the options presented affects the funding sources for a watermain project that are determined on a project by project basis. Option 2B has an impact where there would be expenses that would never be recovered. Option 2C has no timeline for recovery of all services, but would eventually be recovered when a property is sold. Options 1 and 2A would recover all costs within 22 years for those that choose to finance over 12 years after a 10-year deferment.



**RECOMMENDATION**

Authorize Ordinance 2022-\_\_\_\_ an ordinance to amend §207-21 of the Municipal Code regarding Special Assessments of Water Main Laterals.

Engineering: GEM

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2022-\_\_\_\_\_

AN ORDINANCE TO AMEND §207-21 OF THE MUNICIPAL CODE REGARDING  
SPECIAL ASSESSMENTS OF WATER MAIN LATERALS

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WHEREAS, the City wishes to install water main laterals at the time of constructing water main projects to avoid future road repair concerns of water laterals that are connected at a later date.

NOW, THEREFORE, the Common Council of the City of Franklin do hereby and ordain as follows:

SECTION I. Section 207-21 “Assessment for water main lateral.” of the Municipal Code of the City of Franklin, Wisconsin, is hereby amended to read as follows (additions double underlined, deletions in strikethrough):

All non-divisible, developable lots shall have a water main lateral installed when a water main is extended. The assessment for water main laterals installed from the main to the private property line shall be based upon the average cost of the accepted contract bid price quotations of all water main laterals on the project plus 16% for administrative, engineering and inspection fees. The owner, his or her agent or heirs of such property shall be assessed a lump sum for each lateral installed.

SECTION II. The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III. All ordinances or parts of ordinances in contravention to this Ordinance are hereby repealed.

SECTION IV. This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Alderman \_\_\_\_\_.

Passed and adopted by the Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_ NOES \_\_\_\_ ABSENT \_\_\_\_