

**CITY OF FRANKLIN
COMMON COUNCIL MEETING*
FRANKLIN CITY HALL – COMMON COUNCIL CHAMBERS
9229 WEST LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA**
TUESDAY, JUNE 7, 2016
AT 6:30 P.M.**

- A. Call to Order and Roll Call.
- B. Citizen Comment Period.
- C. Approval of Minutes:
 May 17, 2016 Common Council Meeting.
- D. Hearings - Proposed ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT WITHIN PART 8: IMPROVEMENTS AND CONSTRUCTION, TO UPDATE ITS PROVISIONS AND INCORPORATE WISCONSIN DEPARTMENT OF NATURAL RESOURCES WISCONSIN ADMINISTRATIVE CODE STANDARDS AND REGULATIONS AS THEY PERTAIN TO EROSION CONTROL AND STORM WATER MANAGEMENT AND CONSTRUCTION SITE AND POST-CONSTRUCTION SITE PERFORMANCE STANDARDS, INCLUDING, BUT NOT LIMITED TO THE PROVISIONS OF DEPARTMENT OF NATURAL RESOURCES CHAPTER 151 OF THE WISCONSIN ADMINISTRATIVE CODE, AND TO SUPPORT THE DEVELOPMENT OF GREEN INFRASTRUCTURE. This Public Hearing Is Being Held Pursuant To The Requirements Of §236.45(4) Of The Wisconsin Statutes, And Section 15-9.0201 Of The City Of Franklin Unified Development Ordinance As It Applies To Amendments To The Land Division Provisions Of The Unified Development Ordinance.
- E. Organizational Business.
 - 1. Mayoral Appointments:
 - (a) Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year unexpired term expiring 6/30/16).
 - (b) Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year term expiring 6/30/18).
 - 2. Alderman Steve Taylor appointment – Nicholette Reinhardt, 8580 S. Parkland Drive, Ald. Dist. 3 – Board of Review (3 year unexpired term expiring 4/30/17).
 - 3. Alderwoman Wilhelm appointment – Marge Shore, 8046 S. 60th St., Ald. Dist. 5 – Quarry Monitoring Committee (3 year unexpired term expiring 5/31/2017).
- F. Letters and Petitions.

Letter from Creative Homes, Inc. Regarding Sewer and Water Assessment on Evergreen Drive.

G. Reports and Recommendations:

1. A Donation from Jane Godfroy to the Franklin Police Department in the amount of \$1,000 to be allocated to the Police K9 Unit.
2. An Ordinance to Amend the Unified Development Ordinance Text Within Part 8: Improvements and Constructions, to Update its Provisions and Incorporate Wisconsin Department of Natural Resources Wisconsin Administrative Code Standards and Regulations as They Pertain to Erosion Control and Storm Water Management and Construction Site and Post-Construction Site Performance Standards, Including, but not Limited to the Provisions of Natural Resources Chapter 151 of the Wisconsin Administrative Code, and to Support the Development of Green Infrastructure (City of Franklin, Applicant).
3. Request Council Authorization to Amend the Franklin Fire Department Emergency Medical Service (EMS) Rates to Add a Fee for Paramedic Intercept Services in the Amount of \$450.00.
4. An Agreement with the Town of Norway to Provide Advanced Life Support (ALS) Intercept Services to the Wind Lake Fire Department.
5. An Agreement with the Village of Greendale for the Storage of and Shared Access to a 1994 Pierce Saber Fire Engine.
6. A Resolution to Amend Resolution No. 87-3044 Imposing Conditions and Restrictions for the Approval of a Special Use, for Property Located at 10020 South 54th Street, to Allow for the Construction of a Building Addition to the Existing Chrometech of Wisconsin, Inc. Building (ZAR LLC, Applicant).
7. A Resolution Authorizing Certain Officials to Accept a Conservation Easement for and as Part of the Review and Approval of a Certified Survey Map for Property Located at 6803, 6805 and 6807 South 27th Street (WS Franklin LLC, Applicant).
8. A Request for Permission to Prepare a Professional Environmental Services Agreement for and Authorization to Negotiate Terms and Rates for Consultant Review of, Natural Resource Protection Plans (City of Franklin, Applicant).
9. Request for Authorization to Execute a Contract Amendment for a No Cost Modification to MJD's Property Solutions Contract for Pour in Place Surface for Kayla's Playground at Franklin Woods Park (3723 W. Puetz Rd).
10. A Resolution Authorizing Acceptance of a Storm Water Facilities Maintenance Agreement for Autumn Leaves of Franklin Located at 9201 W. Drexel Avenue.
11. A Resolution Authorizing Acceptance of Easements for Autumn Leaves of Franklin for Sanitary Sewer and Water Main Easements at 9201 W. Drexel Avenue (SE ¼ of the SE ¼ of Section 8).
12. Direction to Staff to Survey Area Residents for the Need to Extend Sanitary Sewer on S. 76th Street from a Point 3000 feet south of W. Ryan Road and a Point 1400 feet North of W. Ryan Road and on W. Ryan Road from a Point 2400 feet West of S. 76th Street to S. 76th Street.
13. Direction to Staff to Request the Southeastern Wisconsin Regional Planning Commission to Proceed with a Study of Traffic Flow at the Intersection of S. 51st Street and W. Drexel Avenue.

14. A Ordinance to Modify Water and Sewer Assessment Rates in Section 207-15. of the Franklin Municipal Code.
15. Approval of Revised Rates of Service for Stormwater Management Plan Reviews and Natural Resource Special Exceptions for the Years 2016 and 2017.
16. Request to Continue to Retain a Part-Time Building Inspector.
17. Recommendation from the Director of Information Technology for Implementation Plan for the Fire Stations 2 and 3 "Climate-Controlled Security Closet Project" Using Wall-Mounted Network Cabinets.
18. Authorization to Purchase Software Licenses for Cloud-Based Email Spam and Security Filtering Services, with Symantec Email Security, Cloud, Using General Fund Contingency Appropriations, for an Amount not to Exceed \$4,500.
19. Authorization for the Department of Public Works to Sell Surplus Equipment.
20. A Resolution Authorizing Certain Officials to Execute a Memorandum of Understanding for the Franklin Public School District use of the Softball Fields Located South of the City of Franklin Department of Public Works Facility at 7979 West Ryan Road.
21. A Resolution Authorizing Certain Officials to Execute a Memorandum of Understanding for the 2016 Use of the Softball Fields Located South of The City of Franklin Department of Public Works Facility at 7979 West Ryan Road with Franklin Force, Incorporated.
22. A Resolution Approving the Wisconsin Department of Natural Resources NR-208 Compliance Maintenance Report for 2015.
23. April 2016 Monthly Financial Report.
24. An Ordinance to Amend the Municipal Code as it Pertains to Special Events and the Requirement for the Provision of Private Security Guards (Ald. Wilhelm).
25. Recommendations from the Committee of the Whole:
 - (a) Update on the Status of the Ballpark Commons Development Project.
 - (b) 2015 Comprehensive Annual Financial Report of the City of Franklin and the Required Communications Letter from Clifton Larson Allen, LLP Certified Public Accountants.
 - (c) Request by Alderman D. Mayer for Recommendation Regarding Location and Day of Monthly St. Martins Fairs; and Future Green Markets and Future Farmers Markets.
26. Notice of Claim for Injuries from Joe and Amy Pechacek for an Incident that Occurred when Joe Pechacek was Snow Tubing at The Rock Sports Complex on February 22, 2014. (The Common Council may enter closed session pursuant to §19.85(1)(e) and (g), Wis. Stats., to consider a notice of Claim for Injuries from Joe and Amy Pechacek for an Incident that Occurred when Joe Pechacek was Snow Tubing at The Rock Sports Complex on February 22, 2014.)
27. Notice of Claim from Lisa Collins for Allegations of Defamation, Slander and Failure to Conduct a Fair and Impartial Trial. (The Common Council may enter closed session pursuant to §19.85(1)(e) and (g), Wis. Stats., to consider a notice of Claim from Lisa Collins for Allegations of Defamation, Slander and Failure to Conduct a Fair and Impartial Trial.)

Common Council Meeting

June 7, 2016

Page 4

- H. Licenses and Permits.
Miscellaneous Licenses.
- I. Bills.
Vouchers and Payroll approval.
- J. Adjournment.

*Notice is given that a majority of the Plan Commission may attend this meeting to gather information about an agenda item over which the Plan Commission has decision-making responsibility. This may constitute a meeting of the Plan Commission, per State ex rel. Badke v. Greendale Village Board, even though the Plan Commission will not take formal action at this meeting.

**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.]

REMINDERS:

June 9	Plan Commission	7:00 p.m.
June 23	Plan Commission	7:00 p.m.
June 28	Common Council	6:30 p.m.
July 4	Fourth of July	City Hall Closed
July 19	Common Council	6:30 p.m.

to the Technology Commission to fill the unexpired 3-year term expiring 4/30/2018. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

E.1.(e) Alderwoman Wilhelm moved to confirm the Mayoral appointment of Layne Litwin, 7382 S. Hillendale Dr., Ald. Dist. 3, to the Technology Commission to fill the unexpired 3-year term expiring 4/30/2018. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

E.1.(f) Alderman Barber moved to confirm the Mayoral appointment of Robert Campbell, 5416 W. Behrendt St., Ald. Dist. 5, to the Board of Zoning and Building Appeals for a 3-year term expiring 4/30/19. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

E.1.(g) Alderman D. Mayer moved to confirm the Mayoral appointment of Anthony Megna, 10321 W. Church St., Ald. Dist. 2, to the Board of Zoning and Building Appeals for a 3-year term expiring 4/30/19. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

E.1.(h) Alderwoman S. Mayer moved to confirm the Mayoral appointment of Robert Montgomery, 8570 S. 116th St., Ald. Dist. 6, to the Board of Zoning and Building Appeals for a 3-year term expiring 4/30/19. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

BOARD/COMMISSION
APPOINTMENTS

E.2. Alderwoman Wilhelm moved to confirm the appointment by Alderwoman Kristen Wilhelm of James Luckey, 4925 W. Rawson Ave., Ald Dist. 3, to the Board of Review to fill a 3-year unexpired term expiring on 4/30/2017. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

E.3. Alderman Dandrea moved to confirm the appointment by Alderman Dandrea of Peter Jankowski, 8160 S. 77th St., Ald. Dist. 1, to the Board of Review for a 3-year term expiring 4/30/2019. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

CHILD DEVELOPMENT
WEBSITE

G.1. Alderman Taylor moved to authorize the Director of Health and Human Services to launch a standalone website by the Health Department to promote child development screening and further, the City website, as an informational service, would provide a link to the child development screening service in its website on

the Health Department homepage. Seconded by Alderman Barber. All voted Aye; motion carried.

TOBACCO POSTER
CONTEST WINNERS

- G.2. Alderman D. Mayer moved to accept the report on the 20th Annual Franklin Students Tell the Truth about Tobacco Poster Contest Winners. Seconded by Alderman Taylor. All voted Aye; motion carried.

TEMPORARY STREET
CLOSURE (SCHLUETER
PKWY.) FOR "FRANKLIN
FAMILY FUN FLICK"

- G.3. Alderwoman Wilhelm moved to approve a street closure on Schlueter Parkway from W. Drexel Avenue to Legend Drive on Wednesday, June 15, 2016 in conjunction with the City of Franklin sponsored "Franklin Family Fun Flick". Seconded by Alderman Barber. All voted Aye; motion carried.

PROPOSED SELF-
STORAGE ON S. 27TH ST.
(HIGHLAND DEV.
VENTURES, LLC)

- G.4. No action was taken on a concept review of the proposed self-storage facility upon property located at 6803, 6805 and 6807 South 27th Street (Highland Development Ventures, LLC, Applicant).

GRAEF PROFESSIONAL
SERVICES RELATED TO
BALLPARK COMMONS
PROJECT

- G.5. Alderman Taylor moved to authorize the execution of a Professional Services Agreement with Graef-USA Inc. for services related only to the Ballpark Commons Project in an amount not to exceed \$20,000 time and materials, pending review by City Attorney, with funding from Unrestricted Contingency Account. Seconded by Alderman D. Mayer. All voted Aye; motion carried.

RES. 2016-7198
CHANGE ORDER WITH
STARK PAVEMENT TO
2016 LOCAL STREET
IMPR. PROGRAM

- G.6. Alderman Taylor moved to adopt Resolution No. 2016-7198, A RESOLUTION AWARDED A CONTRACT CHANGE ORDER TO STARK PAVEMENT CORPORATION IN THE AMOUNT OF \$117,769 AS AN ADDITION TO THE 2016 LOCAL STREET IMPROVEMENT PROGRAM. Seconded by Alderman D. Mayer.
Alderwoman Wilhelm moved to call the question. Seconded by Alderwoman S. Mayer. On roll call, Alderwoman Wilhelm and Alderwoman S. Mayer voted Aye; Alderman Dandrea, Alderman D. Mayer, Alderman Taylor and Alderman Barber voted No. Motion to call the question failed.
Upon voice vote to adopt Resolution No. 2016-7198, all voted Aye; motion carried.

ORDINANCE TO
AMEND THE UDO
NATURAL RESOURCE
PROTECTION
STANDARDS

- G.7. [Note: Action invalid due to no prior public hearing process; subsequent to Common Council meeting, subject matter was scheduled for public hearing on June 9, 2015.]
Alderman D. Mayer moved to adopt AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE

TEXT TO ADD A FOOTNOTE TO TABLE 15-4.0100 TO PROVIDE THAT ALL PUBLIC (FEDERAL, STATE, COUNTY, AND CITY OWNED) STREETS, SIDEWALKS AND TRAILS CONSTRUCTION SHALL CONDITIONALLY NOT BE IN SUBJECT TO THE NATURAL RESOURCE FEATURES PROTECTION STANDARDS FOLLOWING THE REVIEW AND APPROVAL OF AN APPLICATION THEREFORE BY THE COMMON COUNCIL (CITY OF FRANKLIN, APPLICANT). Seconded by Alderman Dandrea.

Alderman Wilhelm moved to allow the City Attorney to work with staff to provide a procedure. Seconded by Alderman Taylor. On roll call, Alderman S. Mayer, Alderman Barber, Alderman Taylor, Alderman Wilhelm and Alderman Dandrea voted Aye; Alderman D. Mayer voted No. Motion carried.

Upon voice vote for the adoption of the Ordinance as amended, all voted Aye; motion carried.

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| AMENDMENT TO GRAEF CONSULTING FOR ENGINEERING SERVICES (5500 W. AIRWAYS AVE.) | G.8. | Alderman Wilhelm moved to authorize staff to execute Professional Services Amendment to Graef-USA Inc. in the amount of \$9,750 for engineering services (5500 W. Airways Avenue). Seconded by Alderman Dandrea. All voted Aye; motion carried. |
| RES. 2016-7199 TO SIGN MMSD GREEN SOLUTIONS FUNDING AGREEMENT AT 3723 W. PUETZ RD. | G.9. | Alderman Dandrea moved to adopt Resolution No. 2016-7199, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO SIGN A GREEN SOLUTIONS FUNDING AGREEMENT WITH MILWAUKEE METROPOLITAN SEWERAGE DISTRICT FOR PAVERS AT FRANKLIN WOODS (3723 W. PUETZ RD.). Seconded by Alderman D. Mayer. All voted Aye; motion carried. |
| DESIGN WATER/SEWER PROJECT AT S. WOELFEL RD. AND W. RAWSON AVE. | G.10. | Alderman D. Mayer moved to place on file the direction to staff to solicit an engineering consultant to prepare a proposal for a water and sewer project at S. Woelfel Road and W. Rawson Avenue. Seconded by Alderman Taylor. All voted Aye; motion carried. |
| 2015 FINANCIAL REPORT ON TID 3 AND 4 | G.11. | Alderman Taylor moved to place on file the Financial Report on Tax Incremental Financing District 3 and 4 for Calendar Year 2015. Seconded by Alderman D. Mayer. All voted Aye; motion carried. |
| REPORT ON CONTRACTS AWARDS FOR CDBG | G.12. | No action was taken on a summary of the recent project activity on the City of Franklin City Hall ADA Signage and Senior Meal program Site Kitchen Area Roof Venting. |

RES. 2016-7200
DESIGNATION OF
OFFICIAL NEWSPAPER

G.13. Alderman D. Mayer moved to adopt Resolution No. 2016-7200, A RESOLUTION DESIGNATING AN OFFICIAL NEWSPAPER. Seconded by Alderman Dandrea. All voted Aye; motion carried.

CLAIM FROM MARY
NEUBAUER

G.14. Alderman Taylor moved to deny the claim of Nary Neubauer pursuant to Wisconsin Statute 893.80(1g), based upon and in concurrence with counsel, Attorney William Ehrke, as the investigation revealed that the City of Franklin was not involved in any way with her alleged injury as discussed in the Council Action Sheet. Seconded by Alderman D. Mayer. All voted Aye; motion carried.

LICENSES AND PERMITS H.1.

Alderman Taylor moved to approve the following:
Hold 2015-16 and 2016-17 Operator license applications for appearance from Akia Harmon, 6826 W. Lancaster Ave., Milwaukee; and Sarah Heun, 4905 W. Hunting Park Dr., Franklin; and
Grant 2015-16 Operator License to James Steuck, 3119 S. 22nd St., #19, West Allis, subject to submittal of proof of fine payment; and
Grant 2015-16 Operators' licenses to Breanna Bolskar, 2108 S 61st St., West Allis; Jessica Kiley, 4020 S. 103rd St, Greenfield; Michael Lloyd, 10129 W. Forest Home Ave., #1, Hales Corners;
Grant 2015-16 and 2016-17 Operator licenses to Samantha Jaskie, 7515 S. Mission Hills Ct., Franklin; and
Grant Class A Combination license, subject to satisfactory inspections, to Midwest Retail Group Franklin Inc., Agent James Fiene, 7610 W. Rawson Ave.; 27 Street Mobile LLC, Agent Karam Singh Toor, 6611 S. 27 St.; Ryan Fuel LLC, Agent Kavita Khullar, 5120 W. Ryan Rd.; and
Hold Class B Combination license for Petates LLC, Agent Arturo Napoles, 9405 S. 27th St., for appearance; and
Grant Class B Combination license, subject to satisfactory inspections and payment of license fee, to The Bowery LLC, Owner Roger Hein, 3023 W. Ryan Rd.; and
Grant Class B Combination, Entertainment Amusement licenses, subject to satisfactory inspections, to Buckhorn Bar & Grill, Individual Owner Christopher Matecki, 9461 S. 27 St.; and
Grant Class B Combination license, subject to satisfactory inspections and signature of additional officer, to RLGIDI Inc., Owner Rex Idrizi, 3137 W. Rawson Ave.; and
Grant Class B Combination license, subject to satisfactory inspections, to ERJ Dining III LLC, Agent Paul Scott Thompson, 6439 S. 27th St.; and
Grant Class B Combination, Entertainment & Amusement,

Bowling Alley licenses, subject to satisfactory inspections, to Country Lanes LLC, Owner Robert Sczerzen, 11231 W. Forest Home Ave.;

Grant Reserve Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections and proof of Beverage Server Certificate of Agent, to Federation of Croatian Societies Inc., Agent Josip Veber, 9100 S. 76th St.; and Grant Class B Beer license, subject to satisfactory inspections, to M-squared Inc., Agent Leonard Vandenboom, 11357 W. St. Martins Rd.; and

Grant Class A Combination licenses, subject to satisfactory inspections, to Wisconsin CVS Pharmacy LLC, Agent Samantha Klaphake, 5220 W. Rawson Ave.; Spirit Dreams LLC, Agent Scott Haese, 6507 S. 27 St.; and

Grant Class B Combination license, subject to satisfactory inspections, to M & W Leung LLC, Agent May Leung, 7236 S. 76th St.; and

Grant Reserve Class B Combination license, subject to satisfactory inspections and signature of additional officer, to F F & E LLC, Agent Teresa D'Amato, 6901 S. 76th St.; and

Grant Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections and signature of additional officer, to Seventy Six Street Pub & Grill LLC, Owner Debra Schaefer, 9643 S. 76th St.; and

Grant Class A Combination license, subject to satisfactory inspections and payment of license fee, to Hodach Petroleum Inc., Agent/Owner Stephen Hodach, 9830 W. St. Martins Rd.; and

Grant Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections, to Irish Cottage of Franklin LLC, Owner Roseann Losiniecki, 11344 W. Ryan Rd.; Iron Mike's LLC, Agent/Owner Michael Pues, 6357 S. 27th St.; and

Grant Class A Combination license, subject to satisfactory inspections, to Kwik Trip #287, Agent Andrew Wichmann, 5040 W. Rawson Ave.; Kwik Trip #857, Agent Candida Christman, 10750 W. Speedway Dr.; Jujhar LLC, Agent Sukhminder Bhatti, 11123 W. Forest Home Ave.; and

Grant Class B Combination license, subject to satisfactory inspections, to La Toscana Ristorante LLC, Agent Mirela Sopiqoti, 8405 S. 27th St.; and

Hold Class B Combination, Entertainment & Amusement License applications until the next License meeting, by The Landmark of Franklin LLC, Owner/Agent Lorie Beth Knaack-Helm, 11401 W. Swiss St.; and

Grant Class B Combination, Entertainment & Amusement

licenses, subject to satisfactory inspections and satisfaction of tax warrant, to Little Cancun LLC, Agent/Owner Veronica Cervera, 7273A S. 27 St.; and

Hold Class B Combination license for Robley Tech Inc., Agent/Owner Dennis Rau, 8330 W. Puetz Rd., for appearance; and

Grant Reserve Class B Combination license, subject to satisfactory inspections, to Hudson Burger LLC, Agent Kimberly Olsen, 6421 S. 27th St.; and

Grant Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections, to B.S.T. LLC, Agent Brian Francis, 8933 S. 27 St.; H B & H LLC, Agent Gerald C Hay, 10741 S. 27th St.; and

Grant Class B Beer license, subject to satisfactory inspections, to Oyagi Asian Bistro LLC, Agent Danny Lin, 6509 S. 27 St., #B; and

Grant Class B Combination, Amusement Device Operator licenses, subject to satisfactory inspections and payment of license fees, to Pantheon Inc., Agent Debbie Koutromanos, 7621 W. Rawson Ave.; and

Grant Class A Combination license, subject to satisfactory inspections, to Ultra Mart Foods LLC, Agent Gordon Graf, 7201 S. 76th St.; Mega Marts LLC, Agent Daniel Romero, 7780 S. Lovers Lane Rd.; Franklin Quik Chek LLC, Agent Virendra Singh Verma, 8305 S. 27 St.; and

Grant Class B Combination, Entertainment & Amusement, Amusement Device Operator licenses, subject to satisfactory inspections and signature of additional officer, to Point After, LLC, Agent Darrel Malek, 7101 S. 76th St.; and

Grant Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections, to Polish Heritage Alliance Inc., Agent Jeffrey Kuderski, 6941 S. 68th St.; and

Grant Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections and payment of license fees, to Polonia Sport Club Inc., Agent Irene Hawkinson, 10200 W. Loomis Rd.; Rawson Pub Inc., Agent Steven Schweitzer, 5621 W. Rawson Ave.; The Rock Sports Complex LLC, Agent Thomas Johns, 7900 W. Crystal Ridge Dr.; and

Grant Class B Combination, Amusement Device Operator Licenses, subject to satisfactory inspections and payment of license fees, to Romey's Place LLC, Agent Nathan Fabry, 7508 S. North Cape Rd.; and

Grant Class B Combination, Bowling Alley, Entertainment & Amusement licenses, subject to satisfactory inspections and payment of license fees, to Root Group LLC, Agent David Church, 7220 W. Rawson Ave.

Seconded by Alderman D. Mayer. All voted Aye; motion carried.

Alderman Taylor moved to approve:
Grant Reserve Class B Combination, Entertainment & Amusement licenses, subject to satisfactory inspections and payment of license fees, to Gus's Mexican Cantina LLC, Owner Gus A Hosseini, 6514 S. Lovers Lane Rd.
Seconded by Alderwoman Wilhelm. All voted Aye; motion carried.

VOUCHERS AND
PAYROLL

I.1. Alderman Dandrea moved to approve net general checking account City vouchers in the range of Nos. 160656 through 160838 in the amount of \$1,502,652.04 dated May 3, 2016 through May 12, 2016. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

Alderman D. Mayer moved to approve net payroll dated May 13, 2016 in the amount of \$349,120.95 and payments of the various payroll deductions in the amount of \$195,507.39 plus any City matching payments where required. Seconded by Alderman Dandrea. On roll call, all voted Aye; motion carried.

Alderwoman S. Mayer moved to approve net payroll dated May 27, 2016 estimated at \$345,000 and payments of the various payroll deductions estimated at \$437,000 plus any City matching payments where required. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

Alderman D. Mayer moved to approve property tax refunds No. 16387 in the amount of \$722.59 dated May 3, 2016 through May 12, 2016. Seconded by Alderwoman S. Mayer. On roll call, all voted Aye. Motion carried.

Alderwoman S. Mayer moved to authorize release of payments to Signarama and Conditioned Air Design in an amount not to exceed \$20,000. Seconded by Alderman D. Mayer. On roll call, all voted Aye. Motion carried.

ADJOURNMENT

J. Alderman Taylor moved to adjourn the meeting at 9:10 p.m. Seconded by Alderman Dandrea. All voted Aye; motion carried.

D.

CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FRANKLIN will conduct a public hearing on Tuesday, June 7, 2016, at 6:30 p.m., or as soon thereafter as the matter may be heard, in the Common Council Chambers at the Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, to hear public comment regarding an application by the City of Franklin for AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT WITHIN PART 8: IMPROVEMENTS AND CONSTRUCTION, TO UPDATE ITS PROVISIONS AND INCORPORATE WISCONSIN DEPARTMENT OF NATURAL RESOURCES WISCONSIN ADMINISTRATIVE CODE STANDARDS AND REGULATIONS AS THEY PERTAIN TO EROSION CONTROL AND STORM WATER MANAGEMENT AND CONSTRUCTION SITE AND POST-CONSTRUCTION SITE PERFORMANCE STANDARDS, INCLUDING, BUT NOT LIMITED TO THE PROVISIONS OF DEPARTMENT OF NATURAL RESOURCES CHAPTER 151 OF THE WISCONSIN ADMINISTRATIVE CODE, AND TO SUPPORT THE DEVELOPMENT OF GREEN INFRASTRUCTURE. This public hearing is being held pursuant to the requirements of §236.45(4) of the Wisconsin Statutes, and Section 15-9.0201 of the City of Franklin Unified Development Ordinance as it applies to amendments to the land division provisions of the Unified Development Ordinance. The same proposed ordinance is also the subject of a notice of public hearing before the Plan Commission on May 19, 2016 as the proposed ordinance also applies to amendments to the zoning provisions of the Unified Development Ordinance. A copy of the proposed ordinance in draft form is available and open for inspection by the public in the office of the City Clerk at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, during normal business hours. The public is invited to attend the public hearing and to provide input. The proposed amendments are subject to revisions following public hearing and the further consideration by the City of Franklin Common Council.

Dated this 27th day of April 2016.

Sandra L. Wesolowski
City Clerk

N.B. Class II

Publish: May 19th and May 26th

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<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COMMON COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>6/7/2016</p>
<p>ORGANIZATIONAL BUSINESS</p>	<p>Board and Commission Appointments</p>	<p>ITEM NUMBER</p> <p><i>E. 1.</i></p>

The following appointments have been submitted by the Mayor for Council confirmation:

- (a) Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year unexpired term expiring 6/30/16).
- (b) Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year term expiring 6/30/18).

COUNCIL ACTION REQUESTED

Motion to confirm Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year unexpired term expiring 6/30/16).

Motion to confirm Paul Dausman, 4103 W. Minnesota Court, Ald. Dist. 3 – Economic Development Commission (2 year term expiring 6/30/18).

Shirley Roberts

From: volunteerfactsheet@franklinwi.gov
Sent: Monday, May 23, 2016 2:08 PM
To: Lisa Huening; Shirley Roberts; Sandi Wesolowski
Subject: Volunteer Fact Sheet

Name: Paul Dausman
PhoneNumber: 414-331-6361
EmailAddress: pdausman@valordevelopment.com
YearsasResident: 18
Alderman:
ArchitecturalBoard: 0
CivicCelebrations: 0
CommunityDevelopmentAuthority: 0
FinanceCommittee: 0
EnvironmentalCommission: 0
ForwardFranklinEconomicDevelopComm: 1
FairCommission: 0
BoardofHealth: 0
FirePoliceCommission: 0
ParksCommission: 0
LibraryBoard: 0
PlanCommission: 0
PersonnelCommittee: 0
BoardofReview: 0
BoardofPublicWorks: 0
BoardofWaterCommissioners: 0
TechnologyCommission: 0
WasteFacilitySitingCommittee: 0
BoardofZoning: 0
WasteFacilitiesMonitoringCommittee: 0
CompleteStreetsandConnectivityCommittee: 0
CompanyNameJob1: Health Care Excel
TelephoneJob1: 414-220-9370
StartDateandPositionJob1: 5/1/2010 / CIO
EndDateandPositionJob1: Current
CompanyNameJob2: Valor Development, Inc.
TelephoneJob2: 414-331-6361
StartDateandPositionJob2: 3/1/2006 / CEO & Owner
EndDateandPositionJob2: Current
CompanyNameJob3: IHS, Inc.

TelephoneJob3:
StartDateandPositionJob3: 5/1/1996 - CTO
EndDateandPositionJob3: 3/1/2006 - CTO
Signature: Paul Dausman
Date: 5/23/2016
Signature2: Paul Dausman
Date2: 5/23/2016
Address: 4103 W. Minnesota Court Franklin WI 53132
PriorityListing:

WhyInterested: As a long time homeowner in Franklin, and now one making a significant investment in a new home in Franklin, I would like to get involved in helping the city build more and better amenities and strengthen its business tax base. I have a long history of building and growing businesses in Milwaukee county and an intense personal interest in the type of business Franklin needs to add to its roster.

CompanyAddressJob1: 757 North Broadway, Suite #500 Milwaukee WI 53202
DescriptionofDutiesJob1: Founded a company called Valiant Health which provides software to the Healthcare industry for measuring quality of care. I then sold that company to Health Care Excel and stayed on as their Chief Information Officer.

AddressJob2: 757 North Broadway, Suite #500 Milwaukee WI 53202
DescriptionofDutiesJob2: CEO and Owner of a company which provides technology consulting services to large Milwaukee companies.

AddressJob3: 633 W. Wisconsin Avenue, Suite #1100 Milwaukee WI 53203
DescriptionofDutiesJob3: Chief Technology Officer of a company that provided software and services to the Pharmaceutical industry.

AdditionalExperience: Cooking, Sports, Reading.

ClientIP: 67.52.33.250

SessionID: yz4jliqe5yphgejdvcglvxmb

[See Current Results](#)

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<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COMMON COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>6/07/2016</p>
<p>ORGANIZATIONAL BUSINESS</p>	<p>Board and Commission Appointments</p>	<p>ITEM NUMBER</p> <p><i>E. 2 and 3.</i></p>

The following appointments have been submitted:

Alderman Steve Taylor appointment – Nicholette Reinhardt, 8580 S. Parkland Drive, Ald. Dist. 3 – Board of Review (3 year unexpired term expiring 4/30/17).

Alderwoman Wilhelm appointment – Marge Shore, 8046 S. 60th St., Ald. Dist. 5 – Quarry Monitoring Committee (3 year unexpired term expiring 5/31/2017).

COUNCIL ACTION REQUESTED

Motion to confirm Alderman Taylor appointment – Nicholette Reinhardt, 8580 S. Parkland Drive, Ald. Dist. 3 – Board of Review (3 year unexpired term expiring 4/30/17).

Motion to confirm Alderwoman Wilhelm appointment – Marge Shore, 8046 S. 60th St., Ald. Dist. 5 – Quarry Monitoring Committee (3 year unexpired term expiring 5/31/2017).

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Shirley Roberts

From: volunteerfactsheet@franklinwi.gov
Sent: Tuesday, May 24, 2016 11:58 AM
To: Lisa Huening; Shirley Roberts; Sandi Wesolowski
Subject: Volunteer Fact Sheet

Name: Nicholette Reinhardt
PhoneNumber: 414-416-9559
EmailAddress: nreinhardt@sbcglobal.net
YearsasResident: 15
Alderman: Steve Taylor
ArchitecturalBoard: 0
CivicCelebrations: 0
CommunityDevelopmentAuthority: 0
FinanceCommittee: 0
EnvironmentalCommission: 0
ForwardFranklinEconomicDevelopComm: 0
FairCommission: 0
BoardofHealth: 0
FirePoliceCommission: 0
ParksCommission: 0
LibraryBoard: 0
PlanCommission: 0
PersonnelCommittee: 0
BoardofReview: 1
BoardofPublicWorks: 0
BoardofWaterCommissioners: 0
TechnologyCommission: 0
WasteFacilitySitingCommittee: 0
BoardofZoning: 0
WasteFacilitiesMonitoringCommittee: 0
CompleteStreetsandConnectivityCommittee: 0
CompanyNameJob1: Reinhardt Law Offices, LLC
TelephoneJob1: 414-747-7400
StartDateandPositionJob1: September, 1993/ Attorney
EndDateandPositionJob1: Present
CompanyNameJob2:
TelephoneJob2:
StartDateandPositionJob2:
EndDateandPositionJob2:
CompanyNameJob3:

TelephoneJob3:

StartDateandPositionJob3:

EndDateandPositionJob3:

Signature:

Nicholette Reinhardt

Date:

5/24/2016

Signature2:

Nicholette Reinhardt

Date2:

5/24/2016

Address:

8580 S. Parkland Drive Franklin, WI 53132

PriorityListing:

WhyInterested:

I would like to give back to my community using my area of expertise, real estate development.

CompanyAddressJob1:

445 W. Oklahoma Avenue Milwaukee, WI 53207

DescriptionofDutiesJob1:

Attorney specializing in real estate development and environmental issues.

AddressJob2:

DescriptionofDutiesJob2:

AddressJob3:

DescriptionofDutiesJob3:

AdditionalExperience:

I have been a resident of Franklin for 15 years, and my husband and I are raising 3 children with many interests and activities that keep us busy!

ClientIP:

69.129.88.202

SessionID:

0v0g2355dtzosi55q0by1srf

[See Current Results](#)

RECEIVED
CITY OF FRANKLIN

2016 APR 29 PM 1:02

City of Franklin
9229 West Loomis Road
Franklin, Wisconsin 53132

VOLUNTEER FACT SHEET

Thank-you for your interest in serving on a City Board, Commission, or Committee. In order that consistent information be provided to the Common Council, you are asked to complete the following:

PERSONAL:

Name Margie A Shone
Address 8046 S. 60th St.
Phone Number 414-421-9416
E-Mail _____
Length of Time a Franklin Resident 43 years
Alderman or District Number 5

AREA OF INTEREST: Please check the line next to the Board, Commission or Committee or area of greatest interest. If listing more than one, please prioritize your top three choices (3 being least priority).

- | | |
|---|--|
| <input type="checkbox"/> Architectural Review Board | <input type="checkbox"/> Civic Celebrations Commission |
| <input type="checkbox"/> Community Development Authority | <input type="checkbox"/> Finance Committee |
| <input type="checkbox"/> Environmental Commission | <input type="checkbox"/> Forward Franklin Economic Development Comm. |
| <input type="checkbox"/> Fair Commission | <input type="checkbox"/> Board of Health |
| <input type="checkbox"/> Fire and Police Commission | <input type="checkbox"/> Parks Commission |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> Plan Commission |
| <input type="checkbox"/> Personnel Committee | <input type="checkbox"/> Board of Review |
| <input type="checkbox"/> Board of Public Works | <input type="checkbox"/> Board of Water Commissioners |
| <input type="checkbox"/> Technology Commission | <input type="checkbox"/> Waste Facility Siting Committee |
| <input type="checkbox"/> Board of Zoning and Building Appeals | <input type="checkbox"/> Waste Facilities Monitoring Committee |

X Quarry

Why are you interested in joining this (these) particular Board and/or Commission?

I am on the Quarry Commission now. Would like to serve again. Enjoy working with the people and feel I have a lot of experience & knowledge of the city.

VOLUNTEER OR WORK EXPERIENCE

(Begin with your most recent employment and continue with all past 10 years of employment. Please attach additional paper or include resume, if available.)

Company Name: <i>Carolina Worldways</i>	Address: <i>6412 13th St</i>	Telephone:
Date started:	Starting Position: <i>Office mgr</i>	
Date left: <i>Retired - They joined with ABF</i>	Position upon leaving: <i>Office mgr + auditing</i>	
Description of duties: <i>Handling all office people - TRaveling - teaching I left to take care of my husband.</i>		

Company Name:	Address:	Telephone:
Date started:	Starting Position:	
Date left:	Position upon leaving:	
Description of duties:		

Company Name:	Address:	Telephone:
Date started:	Starting Position:	
Date left:	Position upon leaving:	
Description of duties:		

ADDITIONAL EXPERIENCE OR QUALIFICATIONS: List any other experience, skills, or other qualifications, including hobbies, which you believe should be considered in evaluating your qualifications for volunteering.

Office mgr - Auditing

I am aware that all of the information provided and this document itself is a public record which will be released to a requestor; that I authorize such release and that I waive any right to any notice of such release and/or any right of notice to augment the information provided upon this document upon such request or release.

Signature: *Margie a Howe* Date: *4-29-2016*



F.
RECEIVED
CITY OF FRANKLIN
2016 JUN -1 PM 2:17

June 1st, 2016

City of Franklin
Attn: City Common Council
9229 W. Loomis Road
Franklin, WI 53132

RE: SEWER & WATER ASSESSMENT
EVERGREEN DRIVE, FRANKLIN, WI

To Whom It May Concern:

Please be advised that we have been actively working with Ron Romeis for the past several months regarding the current special assessment that is in place for the property at Evergreen Drive, project number 2014-3.

As we are in the process of acquiring this parcel, our contract is written with the understanding that we are assuming responsibility for the special assessment. This property was represented to the sellers by the City of Franklin's engineering department that there were going to be 6 lots for future development, as the City of Franklin installed 6 city sewer and water laterals at the time the road was constructed and the assessment was put in place.

As we have continued to pursue the acquisition of this parcel, it has now been determined that there are only 4 buildable lots. This is due to the present zoning, the results of the wetland delineation ordered by the City of Franklin, and the City of Franklin's stringent UDO requirements.
(see Exhibit A)

For this reason, we are requesting a reduction in the current special assessment based on the actual available of future lot development. (see Exhibit B and Exhibit C)

Please feel free to contact me with any questions or comments.

Sincerely,

A handwritten signature in cursive script that reads "Rick J. Przybyla".

Rick J. Przybyla
President / Owner

"A Builder of Quality Homes & Developments"

9244 West Grandview Court • Franklin, WI 53132 • Phone: 414.529.0958 • Fax: 414.529.4032

W. EVERGREEN STREET EXTENSION
 Water Main, Sanitary Sewer, Public Street Improvement 2014

TAX KEY NO.	PROPERTY ADDRESS	OWNER NAME & MAILING ADDRESS	ZONING	PROPERTY FRONTAGE (FT)	ASSESSMENT FRONTAGE (FT)	WATER MAIN						SEWER						STREET				TOTAL DEFERRED ASSESSMENT			
						ASSESSMENT RATE (SLF)	ASSESSMENT	NO. OF LATERALS	LATERAL SIZE	LATERAL RATE	LATERAL ASSESSMENT	ASSESSMENT FRONTAGE	ASSESSMENT RATE	ASSESSMENT	NO. OF LATERALS	LATERAL SIZE	LATERAL RATE	LATERAL ASSESSMENT	ASSESSMENT FRONTAGE	ASSESSMENT RATE	ASSESSMENT		DAMAGES	TOTAL ASSESSMENT	
788-9981-002	7501 S. 51st Street (Southwest Area)	Franklin Oasis LLC	R-6	553.0	160	\$65.25	\$10,440.00	2	1 1/4"	\$1,276	\$2,552.00	0	\$82.25	0	0	2	6"	\$2,915	\$5,830.00	160	\$144.42	\$23,107.20	0	\$41,929.20	\$41,929.20
788-9981-002	7501 S. 51st Street (Northwest Area)	Franklin Oasis LLC	R-6	227.0	113	\$65.25	\$7,573.25	1	1 1/4"	\$1,276	\$1,276.00	0	\$82.25	0	1	6"	\$2,915	\$2,915.00	113	\$144.42	\$16,319.46	0	\$27,893.71	\$27,893.71	
788-9981-002	7501 S. 51st Street (Northeast Area)	Franklin Oasis LLC	R-6	325.0	240	\$65.25	\$15,660.00	3	1 1/4"	\$1,276	\$3,828.00	240	\$82.25	\$19,740.00	3	6"	\$2,915	\$8,745.00	240	\$144.42	\$54,560.80	0	\$82,653.80	\$82,653.80	
Totals				1106.0	513		\$33,473.25				\$7,656	\$19,740.00									\$74,087.46		\$152,446.71	\$152,446.71	

*Special assessment determinations are only available if approved by the Common Council upon consideration of a Final Resolution for this project; the amounts so listed are for potential information purposes only.

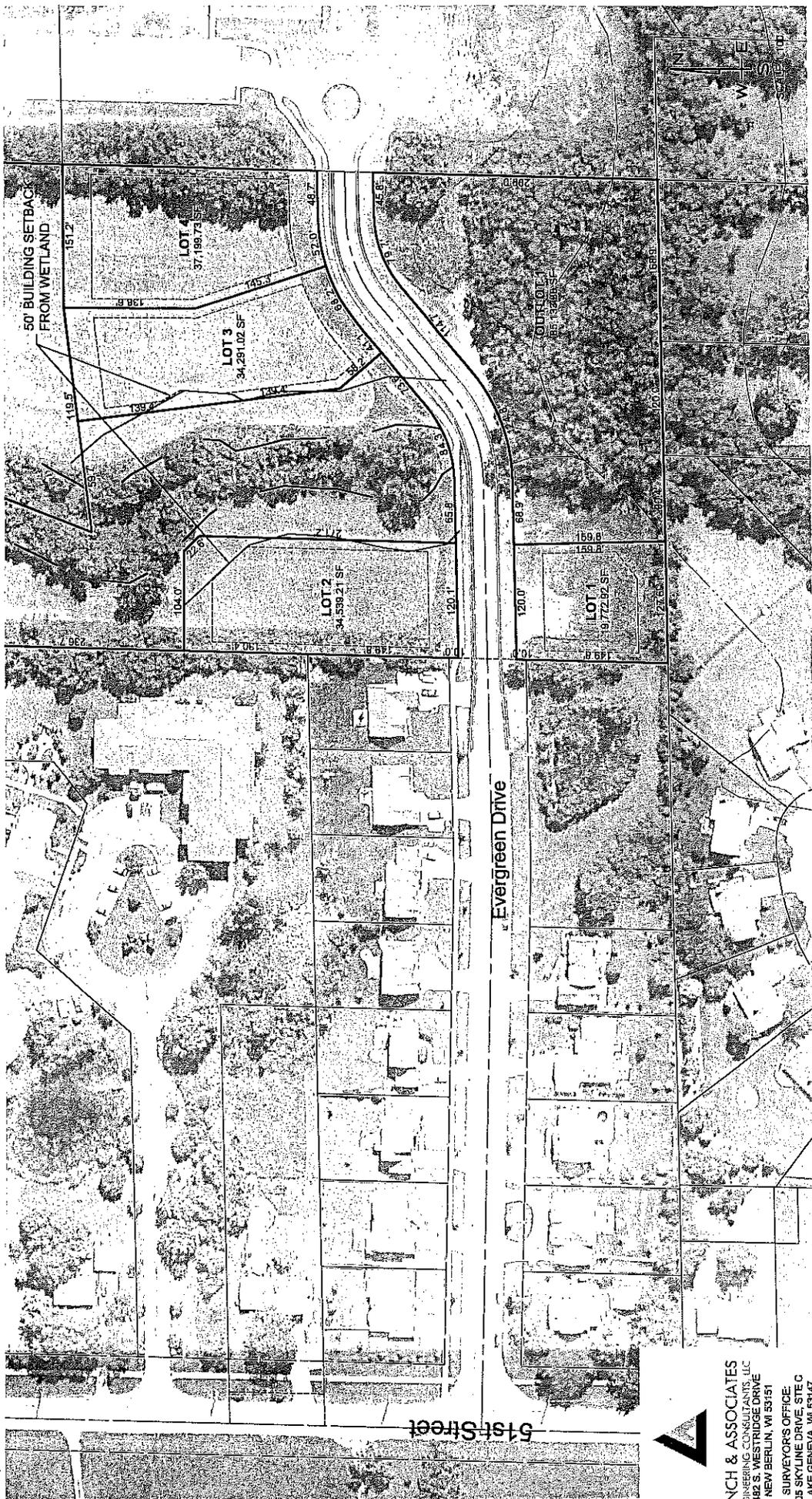
Tax Key Number	Property Address	Owner Name	Zoning	Property Frontage	WATER MAIN					SEWER					STREET			Total Deferred Assessment			
					Assessment Rate	Assessment	No. of Laterals	Lateral Size	Lateral Rate	Lateral Assessment	Assessment Frontage	Assessment Rate	Assessment	Assessment Frontage	Lateral Rate	Lateral Assessment	Assessment Rate		Assessment	Damages	Total Assessment
788-9981-001	7501 S 49th St / SW	Franklin Oaks	R-6		\$ 65.25	\$ 7,830.00	1	1.14"	\$ 1,276.00	\$ 1,276.00	1	6"	\$ 2,915.00	\$ 2,915.00	0	\$ 82.25	0	\$ 144.42	\$ 17,930.40	0	\$ 25,351.40
788-9981-001	7501 S 49th St / NW	Franklin Oaks	R-6		\$ 65.25	\$ 7,830.00	1	1.14"	\$ 1,276.00	\$ 1,276.00	1	6"	\$ 2,915.00	\$ 2,915.00	0	\$ 82.25	0	\$ 144.42	\$ 17,930.40	0	\$ 25,351.40
788-9981-001	7501 S 49th St / NE	Franklin Oaks	R		\$ 65.25	\$ 13,702.50	2	1.14"	\$ 2,552.00	\$ 5,104.00	2	6"	\$ 2,915.00	\$ 5,830.00	210'	\$ 82.25	\$ 17,272.50	\$ 144.42	\$ 30,228.20	0	\$ 69,685.20
						\$ 29,362.50				\$ 5,104.00			\$ 11,660.00			\$ 64,989.00					\$ 126,388.00

MARCH 23, 2016

CONCEPT PLAN
32 SINGLE FAMILY LOTS
896 FT OF NEW ROAD

Project No. 15-047
Creative Homes, Inc.

PAGE 2 OF 3 - SOUTH DEVELOPMENT PLAN



DRAWING BY: MD



LYNCH & ASSOCIATES
 ENGINEERING CONSULTANTS, LLC
 6482 S. WESTRIDGE DRIVE
 NEW BERLIN, WI 53151
 SURVEYORS OFFICE:
 405 SKYLINE DRIVE, STE. C
 LAKE GENEA, WI 53147
 (262) 248-3887

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>Donation / Police Canine Fund</p>	<p>ITEM NUMBER</p> <p><i>G.1.</i></p>

The City of Franklin Police Department received a donation in May of 2016 from Jane Godfroy in the amount of \$1000.00 to be allocated to the Police K9 Unit.

COUNCIL ACTION REQUESTED

Motion to accept this \$1000.00 donation from Jane Godfroy to be deposited into Police Donations/K9 Account.

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APPROVAL <i>Slw</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 06/07/16
REPORTS & RECOMMENDATIONS	<p align="center"> AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT WITHIN PART 8: IMPROVEMENTS AND CONSTRUCTION, TO UPDATE ITS PROVISIONS AND INCORPORATE WISCONSIN DEPARTMENT OF NATURAL RESOURCES WISCONSIN ADMINISTRATIVE CODE STANDARDS AND REGULATIONS AS THEY PERTAIN TO EROSION CONTROL AND STORM WATER MANAGEMENT AND CONSTRUCTION SITE AND POST-CONSTRUCTION SITE PERFORMANCE STANDARDS, INCLUDING, BUT NOT LIMITED TO THE PROVISIONS OF NATURAL RESOURCES CHAPTER 151 OF THE WISCONSIN ADMINISTRATIVE CODE, AND TO SUPPORT THE DEVELOPMENT OF GREEN INFRASTRUCTURE (City of Franklin, Applicant) </p>	ITEM NUMBER <i>G.2.</i>

INTRODUCTION

On Thursday, May 19, 2016, following a properly noticed public hearing, the revised Unified Development Ordinance (UDO) Part 8 was presented to the City of Franklin Plan Commission and approval was recommended by the Commission. During the meeting discussion was held regarding any questions Commission members had. The items left outstanding at the conclusion of the meeting and their resolutions are as follows:

1. There was a concern that the 14-day allowance for temporary stabilization given in Section 15-8.0305(E)(4) was too lenient. Pursuant to a discussion with the Wisconsin Department of Natural Resources (DNR), the 14-day allowance remains.
2. Section 15-8.0305(E)(5) was revised to specify silt fence removal and restoration.
3. Section 15-8.0306(C) was revised to remove the timelines for review. The original timeline was from the DNR model ordinance and specifies DNR timelines only.

BACKGROUND

Wisconsin Department of Natural Resources (DNR) notified Staff that:
"In accordance with Sections 3.3.1 and 3.4.1 of the City of Franklin's municipal separate storm sewer system discharge permit (WPDES No. WI-S050059-3), the City is required to amend the erosion control and storm water management ordinances to incorporate the January 1, 2011 revisions to the ch. NR 151, Wis. Adm. Code, construction site and post-construction performance standards. The City must adopt the amended ordinances by May 1, 2016 and submit copies of these ordinances to the Department by June 1, 2016.

The Department has recently published a guidance document to assist with the ordinance amendment process...."

Staff has reviewed the guidance document and incorporated the significant changes into the Franklin Stormwater ordinances – specifically the Unified Development Ordinance (UDO) Part 8. DNR staff has verified that Franklin may have a grace period to submit the ordinances to the Department as long as the City is in the process of adoption.

A non-profit organization “1000 Friends of Wisconsin” received a contract from the Milwaukee Metropolitan Sewerage District to review local regulations for barriers to green infrastructure. The contract enabled 1000 Friends of Wisconsin and its partners -- Birchline Planning LLC and Milwaukee County Environmental Services Department -- to conduct an update and expansion of the MMSD’s 2005 audit of municipal codes and ordinances by the Center for Watershed Protection. 1000 Friends of Wisconsin met with Franklin Staff and has made additional suggestions for consideration.

On April 7, 2016, The Engineering Department sent a draft of the proposed revisions to the Mayor, members of the Common Council, the Planning Department, the City’s legal counsel, and the DNR. Several comments were received and the draft was revised slightly. On April 19, 2016, the revisions were brought before the Common Council and the Council sent the draft to the Plan Commission. As noted above, on May 19, 2016, a Public Hearing was held at the Plan Commission meeting and the Commission recommended approval.

ANALYSIS

The proposed changes are NOT an overhaul of the current ordinances but should be considered merely an update. A copy of Staff’s recommended changes was distributed to Aldermen for advanced review time. Those changes include:

1. Greater inclusion and reference to green infrastructure.
2. Greater discussion of erosion and sediment control measures for land disturbing activities.
3. Greater discussion and inclusion of infiltration related topics.
4. Updating of best management practices (BMPs).
5. Updates to referenced documents, programs, calculations, and policies.
6. Clarification of current practices.
7. Additional relevant definitions.
8. Discussion of Maximum Extent Practicable.
9. General typographical fixes.

Staff does not believe that any of the changes will require an appreciable change in costs or review time for the City or Developers.

These revisions to the ordinance are required in order to bring the City of Franklin into compliance with the City’s municipal separate storm sewer system (MS4) permit.

Department of City Development staff would note that the standards and restrictions associated with the “Protective Areas” buffers as herein proposed in Part 8 of the UDO are different than those buffers and setbacks as currently set forth in Part 4 (Natural Resource Protection) of the UDO. To bring these two Parts of the UDO in line with one another, staff requests Common Council approval to prepare a report on possible further changes to Part 4 and/or Part 8 of the UDO to resolve any such differences.

FISCAL NOTES

No fiscal impact.

RECOMMENDATIONS

Staff recommends that the Common Council accept the revisions to Part 8 of the Unified Development Ordinance as set forth in the attached Ordinance, and direct staff to prepare a report on possible further changes to Part 4 and/or Part 8 of the UDO to resolve the differences between the buffer standards and restrictions contained within those two Parts of the UDO.

COUNCIL ACTION REQUESTED

A motion to adopt An Ordinance to Amend the Unified Development Ordinance Text within Part 8: Improvements and Construction, to Update Its Provisions and Incorporate Wisconsin Department of Natural Resources Wisconsin Administrative Code Standards and Regulations as they Pertain to Erosion Control and Storm Water Management and Construction Site and Post-Construction Site Performance Standards, Including, but not Limited to the Provisions of Natural Resources Chapter 151 of the Wisconsin Administrative Code, and to Support the Development of Green Infrastructure.

-and-

A motion to direct staff to prepare a report on possible further changes to Part 8 and/or Part 4 of the Unified Development Ordinance to resolve the differences between the buffer standards and restrictions contained within these two parts of the Unified Development Ordinance.

-or-

Such action as may be determined by the Common Council.

STATE OF WISCONSIN CITY OF FRANKLIN MILWAUKEE COUNTY

ORDINANCE NO. 2016-_____

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT WITHIN PART 8: IMPROVEMENTS AND CONSTRUCTION, TO UPDATE ITS PROVISIONS AND INCORPORATE WISCONSIN DEPARTMENT OF NATURAL RESOURCES WISCONSIN ADMINISTRATIVE CODE STANDARDS AND REGULATIONS AS THEY PERTAIN TO EROSION CONTROL AND STORM WATER MANAGEMENT AND CONSTRUCTION SITE AND POST-CONSTRUCTION SITE PERFORMANCE STANDARDS, INCLUDING, BUT NOT LIMITED TO THE PROVISIONS OF DEPARTMENT OF NATURAL RESOURCES CHAPTER 151 OF THE WISCONSIN ADMINISTRATIVE CODE, AND TO SUPPORT THE DEVELOPMENT OF GREEN INFRASTRUCTURE

WHEREAS, the City is required by the Wisconsin Department of Natural Resources to update and amend its Municipal Code zoning provisions pertaining to erosion control and storm water management pursuant to ch. NR 151, Wis. Adm. Code, including and to provide construction site and post-construction site performance standards; and

WHEREAS, the City Engineer having prepared such amendments consistent with the Department of Natural Resources guidance materials and model ordinance, as well as incorporating provisions to promote the development of green infrastructure, and the City Engineer having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the proposed amendments to the Unified Development Ordinance of the Municipal Code and having concurred with the recommendation for adoption by the City Engineer and having determined that the proposed amendments will serve to protect the health, safety and welfare of the Community.

NOW, THEREFORE, the City Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §15-8.0112 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended as follows: delete “basins, settling, and water quality basins” and in place thereof, insert: “infiltration/biofiltration basins, and other green infrastructure.”

SECTION 2: §15-8.0112A(7) of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended as follows: delete “detention and/or retention basins” and in place thereof, insert: “quantity and/or quality control facilities.” Insert “and/or models” after “calculations.”

SECTION 3: §15-8.0203G Erosion and Sedimentation Control Plans, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended as follows: delete "Wisconsin Construction Site Best Management Practices Handbook" and in place thereof, insert: "Storm Water Construction Technical Standards."

SECTION 4: §15-8.0203J Record "As-Built" Plans, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended as follows: insert "Completed storm water management practices must pass a final inspection by the City of Franklin or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City of Franklin or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit."

SECTION 5: §15-8.0301B Authority, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

1. This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under §62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in §62.234, Wis. Stats., §62.23, Stats., applies to this ordinance and to any amendments to this ordinance.

SECTION 6: §15-8.0303 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0303 DEFINITIONS

- A. "Administering authority" means the City of Franklin City Engineer or designee, under §62.234, Wis. Stats., that is hereby designated by the Common Council to administer this ordinance.
- B. "Agricultural facilities and practice" has the meaning in §281.16(1), Stats.
- C. "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- D. "Best management practice" or "BMP" means 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.

- E. "Business day" means a day the office of the Franklin City Engineer or other office designated by the Common Council is routinely and customarily open for business.
- F. "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- G. "Construction site" means an area upon which one or more land disturbing construction activities occur, including, but not limited to 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.
- H. "Division of land" means where the title or part thereof of land is transferred by the execution of a land contract, an option-to-purchase, an offer-to-purchase and acceptance, a deed, a Subdivision Plat, or a Certified Survey Map.
- I. "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- J. "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- K. "Extraterritorial" means the unincorporated area within three miles of the City of Franklin.
- L. "Fill" means 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.
- M. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- N. "Governing body" means the City of Franklin Common Council, or as to any other governmental agency, the town board of supervisors, county board of supervisors, city council, village board of trustees or village council.
- O. "Land disturbing construction activity" means 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 runoff and lead to an increase in 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.

- P. "Landowner" means any person holding fee title, an easement, or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.
- Q. "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this Division, which takes into account the best available technology, cost-effectiveness, and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties, and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- R. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- S. "Permit" means 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.
- T. "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- U. "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- V. "Responsible party" means any person or entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.
- W. "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- X. "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- Y. "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
1. Is designed or used for collecting water or conveying runoff.
 2. Is not part of a combined sewer system.
 3. Is not draining to a storm water treatment device or system.
 4. Discharges directly or indirectly to waters of the state.

- Z. "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- AA. "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- BB. "Stop work order" means an order issued by the City of Franklin, which requires that all construction activity on the site be stopped.
- CC. "Technical standard" means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.
- DD. "Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- EE. "Waters of the state" has the meaning given in s. 281.01(18), Wis. Stats.

SECTION 5: §15-8.03035 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby created to read:

SECTION 15-8.03035 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

SECTION 6: §15-8.0304 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0304 TECHNICAL STANDARDS

DESIGN CRITERIA, STANDARDS, AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards, and specifications based on any of the following:

1. Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
3. Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

Note: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

- B. **OTHER STANDARDS.** Other technical standards not identified or developed in Sub. A. immediately above, may be used provided that the methods have been approved by the City Engineer or designee.

SECTION 7: §15-8.0305 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0305 PERFORMANCE STANDARDS

- A. **RESPONSIBLE PARTY.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with Section 15-8.0307, that incorporates the requirements of this Section.
- B. **PLAN.** A written plan shall be developed in accordance with Section 15-8.0307 and implemented for each construction site.

Note: The written plan may be that specified within s. NR 216.46, the erosion control portion of a construction plan or other plan.

- C. **EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.** The plan required under Sub. B. immediately above, shall include the following:
1. **For Construction Sites Under One Acre.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - a. The deposition of soil from being tracked onto streets by vehicles.
 - b. The discharge of sediment from disturbed areas into on-site storm water inlets.

- c. The discharge of sediment from disturbed areas into adjacent waters of the state.
- d. The discharge of sediment from drainage ways that flow off the site.
- e. The discharge of sediment by dewatering activities.
- f. The discharge of sediment eroding from soil stockpiles existing for more than seven days.
- g. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

2. For Construction Sites of One Acre or More:

- a. **EROSION AND SEDIMENT CONTROL PRACTICES.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - i. The deposition of soil from being tracked onto streets by vehicles.
 - ii. The discharge of sediment from disturbed areas into on-site storm water inlets.
 - iii. The discharge of sediment from disturbed areas into adjacent waters of the state.
 - iv. The discharge of sediment from drainage ways that flow off the site.
 - v. The discharge of sediment by dewatering activities.
 - vi. The discharge of sediment eroding from soil stockpiles existing for more than seven days.
 - vii. The discharge of sediment from erosive flows at outlets and in downstream channels.
 - viii. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

- ix. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- b. **SEDIMENT PERFORMANCE STANDARDS.** In addition to the erosion and sediment control practices under subd. a, the following erosion and sediment control practices shall be employed:
 - i. BMPs that, by design, discharge no more than five tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
 - ii. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
 - iii. Notwithstanding subd. i, if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.
- c. **PREVENTIVE MEASURES.** The erosion and sediment control plan shall incorporate all of the following:
 - i. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - ii. Minimization of soil compaction and preservation of topsoil.
 - iii. Minimization of land disturbing construction activity on slopes of 20 percent or more.
 - iv. Development of spill prevention and response procedures.
- 3. **Natural Resource Protection Standards.** All natural resource features shall be preserved and protected at all times, pursuant to the requirements of Part 4 of this Unified Development Ordinance, which is specifically applied to land disturbance, whether such land disturbance is independent of, prior to, or associated with any other development, including, but not limited to, those setting forth any buffer or setback requirements. Every application for a Construction Site Erosion Control

Permit shall contain a statement that the proposed land disturbance area is not within 100 feet of a natural resource feature, if true, which shall be confirmed by the City Engineer or designee by inspection. Every application for such permit for a land disturbance within 100 feet of a natural resource feature shall include the submission by the applicant of a Natural Resource Protection Plan pursuant to Division 15-7.0200 of this Unified Development Ordinance or such permit shall not be granted. All defined Protected Natural Resources will be protected with a double row of silt fence and a single line of four-foot orange construction fence.

- D. **LOCATION.** The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

Note: While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

- E. **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

1. Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
2. Erosion and sediment control practices shall be maintained until final stabilization.
3. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
4. Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
5. BMPs that are no longer necessary for erosion and sediment control, including but not limited to silt fence, shall be removed and the site restored by the responsible party.

- F. **ALTERNATE REQUIREMENTS.** The City of Franklin may establish storm water management requirements more stringent than those set forth in this Section if the City Engineer or designee determines that an added level of protection is needed for sensitive resources.

SECTION 8: §15-8.0306 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0306

**CONSTRUCTION SITE EROSION CONTROL PERMIT
REQUIRED AND APPLICATION**

- A. **PERMIT REQUIRED.** No responsible party, landowner, occupant, land user, person, or entity may commence, continue, and no responsible party, landowner, or occupant may suffer or allow to continue, a land disturbing construction activity subject to this Division, without receiving prior approval of a control plan for the site and a Construction Site Erosion Control Permit, from the City Engineer or designee, excepting when the disturbance or activity is made under a single family home building permit or other development approval which provides the control measures required under this Division, i.e., Subdivision Development Agreement, Special Use Resolution, and the like. Any person or entity desiring to undertake a land disturbing construction activity subject to this Division shall obtain the submission of an application for a Construction Site Erosion Control Permit, together with a control plan, and pay an application fee. Notwithstanding the foregoing, land disturbing activities may be permitted under a Construction Site Erosion Control Permit without the prior approval of a control plan, for an Adverse Drainage Impacting land disturbing construction activity for which an erosion and sediment control plan statement is required in lieu thereof, under Section 15-8.0307B. of this Division, and for a Class 1 (as described below) application; 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 to further the purposes and intent of this Division.

Note: The application fee shall be included in the fee for building permits and other applicable development approvals, where constituting the exception set forth above.

- B. **PERMIT APPLICATION AND FEES.** An application for a Construction Site Erosion Control Permit shall be signed by the owner of the land involved, as a responsible party, together with the person applying for the permit, if other than the owner, who shall also be a responsible party by reason of such application. The applicant shall also pay an application fee at the time of filing the application. There shall be three classes of applications for the setting of application fees and in part, for applying the control plan requirements. A Class 1 application is an application involving land disturbing construction activities upon a construction site of 1/4 acre up to 1/2 acre or supporting 25 cubic yards up to 100 cubic yards of fill or excavation activities, for which the application fee is \$50.00. A Class 2 application is an application involving land disturbing construction activities upon a construction site of 1/2 acre up to two acres or supporting 100 cubic yards up to 500 cubic yards of fill or excavation activities, any land disturbing construction activity Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity, for which the application fee is \$100.00. A Class 3 application is an application involving land disturbing construction activities upon a construction site of two or more acres or supporting 500 or more cubic yards of fill or excavation activities, for which the application fee is \$250.00, plus an additional \$50.00 for each 500 cubic yards or portion thereof in addition to the base 500 cubic yards. The application shall accurately describe the construction site area and the type of land disturbing construction activity applied for, shall provide the tax key number(s) and available address(es) of property upon which the site is located, and the volume by cubic yards of any filling or excavation activities. In all other respects, the application shall provide for and contain such information as may be reasonably required by the City Engineer or designee, to further the

purpose and intent of this Division. An application fee for land disturbing construction activity commenced prior to the issuance of a permit and applicable approval of a control plan shall be doubled. By submitting an application, the applicant is authorizing the City Engineer or designee to enter the site to obtain information required for the review of the erosion and sediment control plan.

C. **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The City Engineer or designee shall review any permit application that is submitted with an erosion and sediment control plan and the required fee. The following approval procedure shall be used:

1. If the permit application and plan are approved, the City Engineer or designee shall issue the permit.
2. If the permit application or plan is disapproved, the City Engineer or designee shall state in writing the reasons for disapproval.
3. The City Engineer or designee may request additional information from the applicant.

D. **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.

E. **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:

1. Notify the City Engineer or designee within 48 hours of commencing any land disturbing activity.
2. Notify the City Engineer or designee of the completion of installation of any control measures within three days after their installation.
3. Obtain permission in writing from the City Engineer or designee prior to modifying the control plan.
4. Install all control measures as identified in the approved control plan.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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.
10. Keep a copy of the control plan on the site.

F. **PERMIT CONDITIONS.** Permits issued under this Section may include conditions established by the City Engineer or designee, in addition to the requirements set forth in Sub. E. above, where reasonably necessary to assure compliance with the performance standards in Section 15-8.0305.

G. **PERMIT DURATION.** Permits shall be valid for a period of one year unless otherwise shown on the permit, or the length of the building permit or other construction authorizations, whichever are longer, from the date of issuance. The City Engineer or designee may extend the period one or more times for up to an additional 180 days. The City Engineer or designee may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Division.

H. **MAINTENANCE.** All sedimentation basins and all other control measures required by this Division shall be maintained by the land owner, land occupant, and all persons and entities performing development activities upon or adjacent or near the property upon which the control measures are installed in a manner to ensure their intended performance and to prevent nuisance conditions, during the period of land disturbance and land development of the site, and thereafter for control measures intended to perform thereafter for an extended period of time or permanently.

SECTION 9: §15-8.0307 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0307 **EROSION AND SEDIMENT CONTROL PLAN, STATEMENT,
AND AMENDMENTS**

A. **EROSION AND SEDIMENT CONTROL PLAN.**

1. An erosion and sediment control plan shall be prepared and submitted to the City Engineer or designee.
2. The erosion and sediment control plan shall be designed to meet the performance standards in Section 15-8.0305 and other requirements of this ordinance.
3. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 - b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - c. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
 - e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
 - f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - g. Existing data describing the surface soil as well as sub soils.
 - h. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - i. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
 - j. Calculations to show compliance with the performance standard in Section 15-8.0305.

4. The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed two feet.
 - a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, ponds, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Locations and dimensions of all temporary soil or dirt stockpiles and areas where construction equipment will be stored on site.
 - f. Location of major structural and non-structural controls identified in the plan.
 - g. Location of areas where stabilization practices will be employed.
 - h. Areas which will be vegetated following construction.
 - i. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
 - j. Locations of all surface waters and wetlands within one mile of the construction site.
 - k. An alphanumeric or equivalent grid overlying the entire construction site map.
5. Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
 - a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing

vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

- b. Description of structural practices to divert flow away from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City Engineer or designee, structural measures shall be installed on upland soils.
 - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging construction to limit bare areas subject to erosion.
 - f. Protection of down slope drainage inlets where they occur.
 - g. Minimization of tracking at all sites.
 - h. Clean up of off-site sediment deposits.
 - i. Proper disposal of building and waste materials at all sites.
 - j. Stabilization of drainage ways.
 - k. Control of soil erosion from dirt stockpiles.
 - l. Installation of permanent stabilization practices as soon as possible after final grading.
 - m. Minimization of dust to the maximum extent practicable.
6. The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

Note: The plan requirements of this subsection will meet the erosion control plan requirements of s. NR 216.46, Wis. Adm. Code, when prepared in accordance with good engineering practices and the design criteria, standards, and specifications outlined in the Storm Water Construction Technical Standards prepared by the Wisconsin Department of Natural Resources.

- B. **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under Section 15-8.0302(A)(7), an erosion and sediment control plan

statement shall be prepared. This statement shall be submitted to the City Engineer or designee. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

C. **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:

1. There is a change in design, construction, operation, or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
2. The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
3. The City Engineer or designee notifies the applicant of changes needed in the plan

SECTION 10: §15-8.0308 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended as follows: delete "Governing Body" and in place thereof, insert: "Common Council."

SECTION 11: §15-8.0309 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0309 **INSPECTION AND ENFORCEMENT**

A. **Inspection.** The City Engineer or designee and such City representatives as may be designated by the Common Council may inspect land disturbing construction activity sites as often as necessary to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the City Engineer or designee shall enter the land by permission of the landowner or pursuant to the provisions of §66.0119 (1), (2) and (3), Wis. Stats.

B. **Enforcement.** Enforcement of this Division shall be accomplished as follows:

1. The City Engineer or designee 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 Division 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 Subsection, this Division may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to Division 9.0500 of this Ordinance 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 §66.0627, Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this Division is hereby declared to be a public nuisance.
5. In addition to the foregoing provisions of this Subsection, any person violating any of the provisions of this ordinance shall be subject to the penalty provisions set forth under §15-9.0502 of the Unified Development Ordinance.

SECTION 12: §15-8.0603 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0603 PURPOSE

It is the purpose of this Division to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare, and the aquatic environment by integrating local, state, and federal storm water quantity and quality standards. This Division implements the Milwaukee Metropolitan Sewerage District (MMSD) rules on release rates for development creating more than a de minimis amount of new impervious surface to reduce the probability of increased regional floods as the metropolitan area approaches full build-out forecast for 2050. It also incorporates Wisconsin Department of Natural Resources quantity and quality requirements as found in NR 151, Wis. Adm. Code.

SECTION 13: §15-8.0604 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0604 STORM WATER QUALITY AND QUANTITY MANAGEMENT APPLICABILITY

- (1) The water quality management duties apply to property development disturbing one or more acres and the water quantity management duties apply to development disturbing one or more acres or increasing impervious surface by one-half acre or more, unless the site is exempt under paragraph (2) or (3).

Note: The one acre land disturbance threshold is consistent with state and federal laws regarding applicability of construction site erosion control permits. The half-acre or more of new impervious surface is the MMSD criteria.

- (2) A site meeting any one of the following criteria is exempt from storm water quality requirements:
 - a. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - b. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - c. Nonpoint discharges from agricultural facilities and practices.
 - d. Nonpoint discharges from silviculture activities.
 - e. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
 - f. Underground utility construction such as water, sewer, and fiberoptic lines. This exemption does not apply to the construction of any above-ground structures associated with utility construction.
- (3) Water quantity management duties do not apply for:
 - a. Residential infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 10% of the area of the site, and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development or parkland; or other public land, a utility right-of-way, or a watercourse; or,
 - b. Sites where the area of impervious surface after development will be 5% or less of the total area of the site;
 - c. Recreational trails if the trail is less than or equal to 10 feet in width and has a continuous pervious buffer at least 5 feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail. [; or]

- d. Notwithstanding the applicability requirements in paragraph (1), this ordinance applies to post-construction sites of any size that, in the opinion of the City Engineer or designee, is likely to result in runoff that exceeds the capacity of the existing drainage facilities or the level of flooding protection in a watercourse that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.
- (4) Comity. State agencies should design and incorporate best management practices for surface water quality and storm water quantity management for new impervious surfaces. The runoff management techniques should be the same as flood abatement plans and techniques utilized by local governments in the watershed. The lead agency preparing an environmental assessment for a federal or state project should identify the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.

Note: See Trans 400 (Environmental Assessment) and Trans 401 (2003 revisions to conform with NR 151 standards). Wisconsin Department of Transportation (WisDOT) and Wis. DNR have a jurisdictional memorandum of understanding per §281.33 (2), Wis. Stats., limited to management of pollutants in storm water. Trans 401 is narrowly tailed to BMPs for pollution abatement and design criteria for transportation projects. Neither DNR nor DOT rules address post-construction peak runoff and flooding in fully urbanized areas, but each agency's environmental assessment should consider the impacts of new impervious surfaces and the technical and economically feasible alternatives to mitigate the adverse impacts. More stringent local storm water management requirements for peak runoff do not conflict with the state policy on controlling pollutants discharged from storm water point sources. The state rules address different adverse impacts of storm water runoff based on different probabilities and storm intensity. Finally, Trans 401 allows a de minimis exemption from water quality BMPs for highway improvements of less than 1.5 miles and widening of a roadbed by less than 100 feet. Chapter 13 of MMSD Rules and this local ordinance do not treat impervious highways any different than other impervious surfaces. The same threshold of one-half acre or more of new impervious surface for purposes of water quantity BMPs applies.

SECTION 14: §15-8.0605 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0605 DEFINITIONS

- (1) "Adequate sod, or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

- (2) "Administering authority" means a governmental employee under s. 62.234, Wis. Stats., designated by the Common Council to administer this ordinance.
- (3) "Agricultural facilities and practices " has the meaning given in s. 281.16, Wis. Stats.
- (4) "Atlas 14" means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
- (5) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- (6) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to:
 - a. Avoid or minimize sediment or pollutants carried in runoff to waters of the state or
 - b. Manage the rate or volume of runoff.
- (7) "Business day" means a day the office of the City Engineer is routinely and customarily open for business.
- (8) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (9) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.
- (10) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (11) "Critical time" means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.
- (12) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (13) "Development" means residential, commercial, industrial, or institutional land uses and associated roads.
- (14) "Direct conduits to groundwater" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

- (15) "Division of land" means where the title or part thereof of land is transferred by the execution of a land contract, an option-to-purchase, an offer-to-purchase and acceptance, a deed, a Subdivision Plat, or a Certified Survey Map.
- (16) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms, or pretreatment.
- (17) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- (18) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (19) "Filtering layer" means soil that has at least a three-foot deep layer with at least 20 percent fines; or at least a five-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (20) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (21) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City Attorney by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (22) "Governing body" means Common Council.
- (23) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (24) "In-fill area" means an undeveloped area of land located within existing development.
- (25) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (26) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (27) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, or swallets.

- (28) "Land disturbing construction activity" means 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 runoff and lead to an increase in 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.
- (29) "Landowner" means any person holding fee title, an easement, or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.
- (30) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management practices.
- (31) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness, and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties, and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (32) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (33) "NRCS MSE3 or MSE4 distribution" means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (34) "Off-site" means located outside the property boundary described in the permit application.
- (35) "On-site" means located within the property boundary described in the permit application.
- (36) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- (37) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.
- (38) "Percent fines" means the percentage of a given sample of soil which passes through a #200 sieve.

Note: Percent fines can be determined using the "American Society for Testing and Materials," volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Material Aggregates by Washing." Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: <http://www.astm.org>.

- (39) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (40) "Permit" means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (41) "Permit administration fee" means a sum of money paid to the City Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (42) "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (43) "Pollutant" has the meaning given in s. 283.01(13), Wis. Stats.
- (44) "Pollution" has the meaning given in s. 281.01(10), Wis. Stats.
- (45) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (46) "Pre-development condition" means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (47) "Preventive action limit" has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- (48) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.
- (49) "Recreational trail" means a path that is:
- (a) distinctly set apart from a roadway, street, or sidewalk;
 - (b) designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or similar recreational activities not involving the use of motorized vehicles; and
 - (c) not a sidewalk according to sec. 340.01(58), Wis. Stats.
- (50) "Redevelopment " means new construction, modification, or replacement of older development.

- (51) "Responsible party" means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.
- (52) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff;
 - (b) Is not part of a combined sewer system;
 - (c) Is not draining to a storm water treatment device or system; and
 - (d) Discharges directly or indirectly to waters of the state.
- (53) "Shore Buffer" means: All of that land area located within 75 feet landward of the ordinary high water mark of all ponds, streams, lakes, and navigable waters (as determined by the Wisconsin Department of Natural Resources) and parallel to that ordinary high water mark, which is to remain undisturbed as a Natural Resource Feature (including undisturbed natural vegetation). Shore buffers do not include any area of land adjacent to any stream enclosed within a drainage structure, such as a pipe or culvert. The area of shore buffers (in square feet and acres) shall be measured and graphically delineated on the "Natural Resource Protection Plan." A shore buffer is also a setback.
- (54) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (55) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (56) "Stop work order" means an order issued by the City Engineer or Building Inspector which requires that all construction activity on the site be stopped.
- (57) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has under gone final stabilization following completion of the construction activity.
- (58) "Storm water management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (59) "Technical standard" means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.

- (60) "Time of concentration" means time required for a drop of water to travel from the most hydrologically remote point in the watershed to the point of collection.
- (61) "Top of the channel" means an edge, or point on the landscape, landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.
- (62) "Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.
- (63) "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (64) "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- (65) "Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- (66) "TSS" means total suspended solids.
- (67) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149," published 1973. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (68) "Water quality management" means the storm water standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et. seq., parallel state law regulating the discharge of pollutants, and implementing regulations.
- (69) "Water quantity management" means storm water duties and practices to abate peaks flood flows during regional storm events pursuant to Chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.
- (70) "Waters of the state" has the meaning given in s. 283.01(20), Wis. Stats.

SECTION 15: §15-8.06055 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby created to read as follows:

SECTION 15-8.06055

APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

SECTION 16: §15-8.0606 of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby created amended as follows: delete "(3) The most recent rainfall data available from the Southeastern Wisconsin Regional Planning Commission or more productive data shall be the basis for the analyses required by this Ordinance."

SECTION 17: §15-8.0607, Performance Standards, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0607

PERFORMANCE STANDARDS

- (1) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (2) PLAN. A written storm water quality and quantity management plan in accordance with Section 15-8.0609 shall be developed and implemented for each post-construction site.
- (3) MAINTENANCE OF EFFORT. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.
- (4) REQUIREMENTS. The water quality plan required under subd. (2) shall include the following:
 - (a) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed, and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

1. For new and in-fill developments, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load from parking areas and roads by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
3. Maximum Extent Practicable. If the design cannot meet a total suspended solids reduction performance standard of subs. 1. to 2, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.

Note: Pollutant loading models such as DETPOND, WinSLAMM, P8, or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise.

4. Off-Site Drainage. When designing BMPs, runoff draining to the BMP from offsite shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(b) WATER QUANTITY AND MANAGEMENT OF PEAK RUNOFF

1. BMPs shall manage the volume, timing, and peak flow rate of runoff to prevent increases in the *regional flood* and stream bank erosion rates.
2. These BMPs may be implemented on either a watershed basis or an individual site basis.
3. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional storm water management plan, rather than subs. 6 and 7.
4. By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour post-construction peak runoff discharge rate to the 1-year, 24-hour pre-development peak runoff discharge rate, or to the maximum extent practicable.

5. By design, BMPs shall be employed to meet the stricter of the following for the 2-year, 24-hour storm:
 - a. Maintain or reduce the 2-year, 24-hour post-construction peak runoff discharge rate to the 2-year, 24-hour pre-development peak runoff discharge rate, or to the maximum extent practicable (per Wisconsin Department of Natural Resources), or
 - b. Achieve a maximum runoff release rate of 0.15 cubic feet per second per acre or utilize the volumetric design procedure to limit post-development runoff volumes to existing condition runoff volumes during the critical time period (per MMSD).
6. By design, BMPs shall be employed to maintain or reduce the 10-year, 24-hour post-construction peak runoff discharge rate to the 10-year, 24-hour pre-development peak runoff discharge rate, or to the maximum extent practicable.
7. By design, BMPs shall be employed to meet the stricter of the following for the 100-year, 24-hour storm:
 - a. Achieve a maximum runoff release rate of 0.5 cubic feet per second per acre or utilize the volumetric design procedure to limit post-development runoff volumes to existing condition runoff volumes during the critical time period (per MMSD), or
 - b. Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the City, or
 - c. A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with sub. 1 (per MMSD).

Note: §13.11(3)(b)(2), MMSD Rules, permits an individual site exemption from the 0.5 cfs release rate if an analysis shows that the runoff will be distributed over the critical time (a defined term) so as not to reduce the level of protection downstream.
8. The runoff curve numbers in Table 1 shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the City Engineer may allow the use of TP-40 precipitation depths and the Type II distribution.

*Note: The Natural Resources Conservation Service (NRCS) – Wisconsin has calculated county-specific Atlas 14 precipitation depths and they are to be used in combination with the appropriate NRCS MSE3 or MSE4 precipitation distribution. The NRCS calculated county-specific Atlas 14 precipitation depths and MSE3 and MSE4 precipitation distributions are available at:
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/wi/technical/engineering/?cid=nrsc142p2_025417.*

Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

Note: Where the pre-development condition is a combination of woodland, grassland, or cropland, the runoff curve number should be pro-rated by area.

9. All storm sewers shall at a minimum be designed to carry the peak flows from a 10-year, 24-hour design storm using planned land use for the entire contributing watershed. All storm sewers shall be designed in accordance with applicable City standards and specifications. The City Engineer may require conveyance of a larger recurrence interval storm for heavily traveled roadways and areas where the City Engineer determines that an added level of protection is needed.
10. This subsection of the ordinance does not apply to any of the following:
 - a. A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
 - b. Except as provided under 15-8.0607(3), a redevelopment post-construction site.
 - c. An in-fill development area less than five acres.

(c) INFILTRATION.

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
 - a. Low imperviousness. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
 - b. Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
 - c. High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
2. Pre-development. The pre-development condition shall be the same as specified in Table 1 of the Peak Discharge section of this ordinance.
3. Source Areas.
 - a. Prohibitions. Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in subd. 6:
 - i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21(2)(a), including storage, loading, and parking.

Rooftops may be infiltrated with the concurrence of the regulatory authority.

- ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21(2)(b).

Note: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

- iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

- b. Exemptions. Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

- i. Parking areas and access roads less than 5,000 square feet for commercial development.
- ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under subd. a.
- iii. Except as provided under 15-8.0607(3), redevelopment post-construction sites.
- iv. In-fill development areas less than five acres.
- v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. Location of Practices:

- a. Prohibitions. Infiltration practices may not be located in the following areas:

- i. Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
- ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4) or within the separation distances listed in s. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial, and institutional land uses or

regional devices for one- and two-family residential development.

iii. Areas where contaminants of concern, as defined in s. NR 720.03(2), are present in the soil through which infiltration will occur.

b. Separation distances:

i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 2:

Table 2. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

ii. Notwithstanding subd. i, applicable requirements for injection wells classified under ch. NR 815 shall be followed.

c. Infiltration rate exemptions. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

ii. Where the least permeable soil horizon to five feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

5. Alternate Use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
6. Groundwater Standards:
 - a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. Notwithstanding subd. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
7. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales, or filter strips.
8. Maximum Extent Practicable. Where the conditions of subs. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of 15-8.0607(4)(c) shall be met to the maximum extent practicable.

(d) PROTECTIVE AREAS

1. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
2. Definition. In this section, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

- a. For outstanding resource waters and exceptional resource waters, 75 feet.
- b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 75 feet.
- c. For lakes, 75 feet.
- d. For wetlands not subject to subs. e. or f., 50 feet.
- e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
- f. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
- g. In subs. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
- h. Wetland boundary delineation shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
- i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
- j. Notwithstanding subs. a. to i., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

Note: A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

3. The following requirements shall be met:
 - a. Impervious surfaces shall be kept out of the protective area and buffers to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are allowed to be disturbed during construction.
 - b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of aquatic habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur. Every effort shall be made to return the disturbed protected area to its natural state.

Note: It is recommended that seeding of native vegetative cover be used in the disturbed portion of the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method."

- c. Best management practices such as filter strips, swales, water retention and detention structures, infiltration/biofiltration basins, and other green infrastructure, that are designed to control pollutants from non-point sources, may be located adjacent to the protective area.

Note: Other regulations, such as ch. 30, Wis. Stats. and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, the Franklin UDO and the municipal code sections such as the tree and noxious weed ordinances and their associated review and approval process, may apply in the protective area.

4. This paragraph does not apply to:
 - a. Except as provided in 15-8.0607(3), redevelopment post-construction sites.

- b. In-fill development areas less than five acres.
- c. Structures that cross or access surface waters such as boat landings, bridges, and culverts.
- d. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
- e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note: A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. e. is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

- (e) FUELING AND VEHICLE MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen and meet the standards of the Clean Water Act.

Note: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill-cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

- (f) SWALE TREATMENT FOR TRANSPORTATION FACILITIES

- 1. Applicability. Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal shall meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

- a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

Note: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

- b. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales," dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

2. Other Requirements. The City Engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

- a. An outstanding resource water as defined in the State Department of Natural Resources.
- b. An exceptional resource water.
- c. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
- d. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

Note: The transportation facility authority shall contact the City Engineer to determine if additional BMPs, beyond a water quality swale, are needed under this subsection.

(5) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:

- (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section and Division 15-4.0100
- (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (c) BMPs for water quantity management shall utilize the following techniques, in order of preference:

1. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;
2. Preservation of existing wetlands, natural streams, channels, and drainage ways;
3. Minimization of new impervious surfaces;
4. Conveyance of storm water in open vegetated channels;
5. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
6. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

(6) LOCATION AND REGIONAL TREATMENT OPTION

- (a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice, or system within the same watershed, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.
- (b) Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment as long as treatment is provided for total site.

Note: This regional treatment option does not supersede any other federal, state or local regulation of post-construction runoff, such as chs. NR 103 and 30, Wis. Stats.

- (c) The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs is subject to this chapter.
- (d) The City Engineer may approve off-site management measures provided that all of the following conditions are met:
 1. The City Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Franklin and that contains management requirements consistent with the purpose and intent of this ordinance.
 2. The off-site facility meets all of the following conditions:
 - a. The facility is in place.

- b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
 - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - (e) Where a regional treatment option exists such that the Common Council exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Common Council. In determining the fee for post-construction runoff, the Common Council shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (7) **ALTERNATE REQUIREMENTS.** The City Engineer may establish storm water management requirements more stringent than those set forth in this section if the City Engineer determines that an added level of protection is needed to protect sensitive resources.
- (8) **CREDIT FOR REMOVAL OF IMPERVIOUS SUFACES**
 - (a) **Same Site Credit.** The City Engineer may use the removal of pavement, covered structures, or other impervious surfaces at the same property to calculate the net post-construction impervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than, the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the administering authority and may be banked for allocation to other development within the sub-watershed under subd. (b).
 - (b) **Dispersed Site in Same Sub-Watershed Credit.** The administering authority may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same sub-watershed, where the volume, timing, and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The administering authority may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.

SECTION 18: §15-8.0608, Permitting Requirements, Procedures and Fees, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0608 **PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

- (1) **PERMIT REQUIRED.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the City Engineer prior to commencing the proposed activity and that all provisions of Division 15-4.0100 are complied with.
- (2) **PRIOR TO PERMIT APPLICATION:** All Storm Water Management Plans shall be submitted at the time of site plan review or as a condition of approval as required under Section 15-8.0112, and as applicable under Sections 15-7.0103 (P) and 15-7.0501 (J), and shall receive complete review with written letter of approval from the City Engineer and all pertaining State, Federal, and Local approving authorities to assure that all proposed design standards meet the requirements of the City Storm Water Management Plan, and further that as-built will be in compliance of Sections 15-4.0100. Any Plats or CSM's receiving contingent Storm Water Management Plan approval shall submit said letters of written approval with the Permit Application before a permit may be granted.
- (3) **PERMIT APPLICATION AND FEES.** Any responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City Engineer for that purpose.
 - (a) Unless specifically excepted, a permit application must be accompanied by a storm water management plan, a maintenance agreement, and a non-refundable permit administration fee.
 - (b) The storm water management plan shall be prepared to meet the requirements of Sections 15-8.0607 and 15-8.0609, the maintenance agreement shall be prepared to meet the requirements of Section 15-8.0610, the financial guarantee shall meet the requirements of Section 15-8.0611, and fees shall be those established by the Common Council as set forth in Section 15-8.0612.
- (4) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The City Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee, as follows:
 - (a) Within 20 business days of the receipt of a complete permit application, including all items as required by subd. (2), the City Engineer shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
 - (b) If the storm water permit application, plan, and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City Engineer shall issue the permit.
 - (c) If the storm water permit application, plan, or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.

- (d) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have 10 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (5) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City Engineer to suspend or revoke this permit may be appealed in accordance with Section 15-8.0614.
- (a) The responsible party shall design and install all structural or identify non-structural storm water management measures, or both, in accordance with the approved storm water management plan and this permit.
- (b) The responsible party shall notify the City Engineer at least two business days before commencing any work in conjunction with the storm water management plan, and within five business days upon completion of the storm water management practices. If required as a special condition under subd. (5), the responsible party shall make additional notification according to a schedule set forth by the City Engineer so that practice installations can be inspected during construction.
- (c) Practice installations required as part of this ordinance shall be certified "as-built" or "record" drawings by a licensed professional engineer. All depth and size requirements shall be considered a minimum. Completed storm water management practices must pass a final inspection by the City Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (d) The responsible party shall maintain all storm water management practices until the responsibility is transferred to the City of Franklin, or subsequent private owners as specified in the approved maintenance agreement.
- (e) The responsible party authorizes the City Engineer to perform, to delegate, or to take any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 15-8.0611.
- (f) If so directed by the City Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities, private property, drainage ways, and natural resources caused by runoff, where such damage

is caused by activities that are not in compliance with the approved storm water management plan.

- (g) The responsible party shall permit property access to the City Engineer or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (h) Where site development or redevelopment involves changes in direction or increases in the peak rate or the total volume of runoff, the City Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (6) PERMIT CONDITIONS. Permits issued under this subsection may include reasonable and necessary conditions established by the City Engineer in addition to the requirements needed to meet the performance standards in 15-8.0607 or a financial guarantee as provided for in 15-8.0611.

Note: "Reasonable and necessary" is the §283.63(1), Wis. Stats., standard for permit conditions and duties in Clean Water Act permits.

- (7) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the City Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under subd. (5)(c) not to exceed one year in duration.

SECTION 19: §15-8.0609, Storm Water Management Plan, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0609 **STORM WATER MANAGEMENT PLAN**

- (1) PLAN REQUIREMENTS. In addition to the requirements of 15-8.0112 the following items are required. The storm water management plan required under 15-8.0607(2) shall contain at a minimum the following information:
- (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
 - (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) PRE-DEVELOPMENT SITE CONDITIONS. A description of the existing conditions of the site, including:

1. A topographic and cadastral map of the site at a scale of one inch equals 100 feet or larger,
2. The hydrologic and hydraulic characteristics of the site including drainage flow paths and directions of flow onto, through, and out of the site; related drainage basin boundaries, including off-site tributary areas; times of concentration,
3. The location of areas where storm water may collect or percolate into the ground,
4. Locations where runoff enters the site from adjacent tributary areas together with the size of those areas, expressed in acres,
5. Locations where runoff leaves the site and the contributing watersheds to each of these locations, expressed in acres,
6. One-year (per Wisconsin Department of Natural Resources), two-year (per WDNR and MMSD), and 100-year (per MMSD) pre-development runoff rates at each location where runoff leaves the site, expressed in cubic feet per second,
7. Ground water elevations,
8. Soils by hydrologic group,
9. Cover type and condition,
10. Location and extent of impervious surfaces, including cover type (genus and species name) and condition of the surfaces,
11. Locations and outlines of all buildings or other structures,
12. Location of all natural resource features as identified in Table 15-4.0100,
13. Information regarding current water quality objectives and current water quality conditions in any intermittent and perennial watercourses located on or within 100 feet of the site,
14. Locations, sizes, and elevations of all existing storm sewers, channels, ditches, detention or retention ponds, or other engineered drainage facilities on or within 100 feet of the site, and,

15. Locations of any existing water supply wells and wellhead protection areas.
- (d) POST-DEVELOPMENT SITE CONDITIONS, describing the alterations proposed at to the site and the resulting proposed post-development conditions, including:
1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters,
 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances,
 3. Proposed changes in the planimetry of the site, and in the topography of the site by contours having the same contour interval and referred to the same datum as used to present the topography of the existing site conditions,
 4. The location and outline of all proposed buildings or other structures,
 5. Changes in the location, extent and type of impervious surfaces,
 6. The location, type, and extent of areas where vegetation is to be disturbed or planted,
 7. Impacts on existing natural storage or infiltration areas,
 8. Changes in the drainage flow paths into, through, and out of the site, and related changes in drainage basin boundaries,
 9. The location, elevations, and sizes of all proposed minor and major storm water management facilities; the former including all storm sewers and inlets, the latter including curbed roadways, roadway ditches, culverts, interconnected flow paths, storage facilities, water retention and detention structures, infiltration/biofiltration basins, and other green infrastructure.
 10. One-year (per Wisconsin Department of Natural Resources), two-year (per WDNR and MMSD), and 100-year (per MMSD) post-development runoff rates at each location where runoff leaves the site, expressed in cubic feet per second,
 11. Any changes to lakes, streams, watercourses, or wetlands on or within 100 feet of the site, and,
 12. The location and widths of required public rights-of-way or easements needed to accommodate the recommended Storm Water management facilities.

(e) PROPOSED STORM WATER MANAGEMENT FACILITIES AND MEASURES. A definitive description of the proposed storm water management facilities and measures for the control of the quantity and quality of the anticipated storm water runoff from the proposed development, redevelopment, or land division. The description of the proposed management facilities shall include:

1. For storm water quantity and quality control facilities: locations, areas, depths, volumes, inlet and outlet configurations (and elevation of the bottoms), and of key inlet and outlet control structures;
2. In the design of the storm water quantity and quality control facilities, consideration shall be given to access for maintenance purposes. If possible the facilities should be located adjacent to public property. If it is not possible to locate the facilities adjacent to public property an access easement shall be granted with explicit language such that the abutting property owners shall be aware that the easement is for access to the facilities for maintenance purposes;
3. For conveyance facilities: locations of inlets and manholes and associated rim and invert elevations, and pipe sizes, slope, and materials; locations, elevations, and cross sections of ditches, swales, and channels; and culvert sizes and inlet and outlet configurations and elevations;
4. Design computations and all applicable assumptions for the storm water conveyance (open channel, closed pipe, etc.) system;
5. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices;
6. Design computations/models and all applicable assumptions for storm water quantity and quality facilities and practices;
7. Measures to abate any potential pollution of surface and ground waters;
8. A schedule for the construction of the required storm water management facilities and estimates of attendant capital and operation and maintenance costs;
9. A maintenance plan developed for the life of each storm water management practice, including the designated and reserved maintenance access route(s), required maintenance activities, and maintenance schedule;
10. A landscaping plan in accordance with "The City of Franklin Unified Development Ordinance – Pond Landscaping Guidelines as defined in Appendix "F" of the City of Franklin Storm Water Management update – December 2002; and

11. Other information as needed by the City to determine compliance of the proposed storm water management measures with the provision of this Section.
 - (f) A description and installation schedule for the storm water management practices needed to meet the performance standards in Section 15-8.0607.
 - (g) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (h) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (i) Other information requested in writing by the City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (j) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer and be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 15-8.0607(6)(e).

SECTION 20: §15-8.0610, Maintenance Agreement, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

SECTION 15-8.0610 MAINTENANCE AGREEMENT

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under 15-8.0608(3) for storm water management practices shall be an agreement between the Common Council and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices. The development agreement may serve as the maintenance agreement.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 15-8.0609(1)(g):
 - (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

- (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 15-8.0608(3). The schedule and required maintenance activities shall conform to the requirements as given in the Storm Water Post-Construction Technical Standards prepared by the Wisconsin Department of Natural Resources, as amended. At a minimum, all storm water quantity and quality control facilities shall be inspected once per year by the responsible party and the inspection report submitted to the City Engineer.
- (c) Identification of the responsible party(s), organization or city, county, town, or village responsible for long-term maintenance of the storm water management practices identified in the storm water management plan required under 15-8.0608(3).
- (d) Requirement that the responsible party(s), organization, or city shall maintain storm water management practices in accordance with the schedule included in subd. (b).
- (e) Authorization for the City Engineer, its designee, and the Milwaukee Metropolitan Sewerage District to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (f) Agreement that the party designated under subd. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the City Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City Engineer.
- (g) Authorization of the City Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under subd. (c) does not make the required corrections in the specified time period. The City Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(3) **POND MAINTENANCE GUIDELINES**

Trees and Brush

Trees and brush may be permitted on slope surfaces or berms.

Stump Removal and Sprout Prevention

Stumps of trees should be removed so vegetation can be established and the surface mowed. Stumps can either be removed by pulling or with machines that grind them down. All woody material should be removed to about 6 inches below the ground

surface. The cavity should be filled with well-compacted soil and grass vegetation established.

Stumps of trees in riprap areas that cannot usually be easily pulled or ground down can be chemically treated so they will not continually form new sprouts. Certain herbicides are effective for this purpose and can even be used near water supply reservoirs if applied by licensed personnel. These products should be painted, not sprayed, on the stumps. Other instructions found on the label should be strictly followed when handling and applying these materials. Only a few commercially available chemicals can be used along shorelines or near water.

Landscaping

Vegetation shall be examined regularly, at least twice a year during the first two growing seasons. Stunted growth of pond vegetation or growth and excessive invasive species indicate that increased maintenance and intervention will be necessary.

Native landscaping prairie area shall be managed by hand removal for invasives during the first 2-3 years of the growing season in order to become well established. Burning, cutting, or selective herbicide for management of invasives and woody species should take place as needed on a two-year cycle after the third growing season. Emergent and submergent vegetation around the perimeter of the pond areas shall be inspected annually and any non-native and invasive species be removed. Herbicides should not be used near open water areas.

Structural Inspection and Maintenance

After construction and site grading are complete, the pond should be checked by the City Engineer for correct design depth and volume. If sediment has deposited during construction or site grading, the pond shall be re-excavated.

The annual inspection by the City Engineer and/or maintenance of the following items shall include inspection of:

- Pond inlets and outlets for structural integrity and blockage,
- Riprap at pipe and culvert outlets for placement, integrity, and effectiveness,
- Inspection of berms for cracks, excessive settlement, or seepage.

Sediment Removal (Dredging)

This component includes monitoring of the levels of the sediment on an annual basis. When the sediment in the forebay (or the main basin) reaches a depth of two feet, the material shall be removed so that the original volume of the permanent pool is maintained. In general, pond dredging is expected to occur once every 10 to 15 years. The following practices help ensure dredging is not warranted prematurely:

- Construction site erosion control,
- As-built survey of the pond at time of completion,
- Successful re-vegetation and/or restoration of pond surroundings.

Nuisance Waterfowl Control

Nuisance waterfowl control is generally achieved through the use of upland or shoreland buffers consisting of un-mowed tall vegetation. The buffer zone can be mowed in the early summer of the second full growing season. Refer to Appendix "F" of the City of Franklin Storm Water Management Plan Update dated December 2002 by Bonestroo, Rosene, Anderlik and Associates.

(4) CONSTRUCTED WETLANDS

In some situations, a sedimentation basin followed by a natural wetland buffer (to act as a pre-filter to a natural wetland), a restored wetland, or a constructed wetland "can" be an effective means of removing some suspended solids, nutrients, and other potential pollutants from storm water runoff. The primary function of the sedimentation basin is, as already noted, to remove buoyant debris and suspended solids and the related potential pollutants. Storm water then passes into the restored or constructed wetland where physical (e.g., settling) and biological (e.g., nutrient uptake by vegetation) processes remove additional potential pollutants. The restored or constructed wetland offers opportunities to develop wildlife habitat, education (e.g., self-guided tours), and aesthetic benefits.

In addition to regular maintenance activities, several design features can be incorporated to ease the maintenance of restored or constructed wetlands. One potential maintenance concern in restored or constructed wetlands is clogging of the outlet. Restored or constructed wetlands should be designed with a non-clogging outlet such as a reverse-slope pipe, or a weir outlet with a trash rack. A reverse-slope pipe draws from below the micropool extending in a reverse angle up to the riser and establishes the water elevation of the micropool. Because these outlets draw water from below the level of the micropool, they are less likely to be clogged by floating debris.

Restored or constructed wetlands should incorporate design features that make sediment cleanouts of both the forebay and the shallow pool easier. Restored or constructed wetlands should have direct maintenance access to the forebay to allow this relatively routine (five to seven year) sediment cleanouts. In addition, the shallow pool should generally have a drain to draw down the restored or constructed wetland for the more infrequent dredging of the main cell of the restored or constructed wetland.

In general, the introduction of natural features in constructed wet detention basins will not only increase pollutant removal capacity, but also result in a new water body that can potentially come to offer wildlife habitat values. In order to help this process, the wet detention ponds must be specially designed to have the appropriate geometry, location, size,

and vegetation. Such facilities are called constructed wetlands and have been shown to be effective, successful, and reliable in the long run.

Because of their natural appearance, water quality benefits, and need for minimum maintenance, constructed wetlands are preferred and should be encouraged whenever appropriate and/or possible. However, it should be noted that storm water wetlands are designed specifically for the purpose of treating storm water runoff, and typically have less biodiversity than natural wetlands both in terms of plant and animal life.

(5) **BIORETENTION FACILITIES**

Bioretention areas are landscaping features adapted to treat storm water runoff on the development site. They are commonly located in parking lot islands or within small pockets in residential land uses. Surface runoff is directed into shallow, landscaped depressions. These depressions are designed to incorporate many of the pollutant removal mechanisms that operate in forested ecosystems. Runoff from larger storms is generally diverted past the facility to the storm drain system or another BMP. The remaining runoff filters through a prepared or amended soil mixture which acts as a pollutant removal system. When underlying soils are not conducive to infiltration the filtered runoff is collected in a perforated underdrain and sent to the storm drain system.

Bioretention systems can be applied to a wide range of development. Bioretention can be applied in many climate and geologic situations, with some minor design modifications. In cold climates, bioretention areas can be used as a snow storage area. When used for this purpose, or if used to treat parking lot runoff, the bioretention area should be planted with salt-tolerant and non-woody plant species, and the composition of the soil mixture should be designed specifically to accommodate this purpose. Wisconsin Department of Natural Resources Storm Water Post-Construction Technical Standard No. 1004, Bioretention for Infiltration, may be used as a reference for design, operation and maintenance of these facilities.

(6) **FOREBAYS (PRE-SETTLEMENT BASINS)**

Pre-settlement basins or forebays consist of additional storage space located near a storm water practice inlet that serves to trap incoming coarse sediments before they accumulate in the main treatment area. In general, the surface area of the forebay is typically about 10% of the volume of the main pool.

The forebay is designed to settle out coarse sediment particles before they reach the main pool. By trapping these sediments in the forebay, it is possible to greatly reduce the maintenance burden of the pond. Coarse sediments are trapped in the forebay, and these sediments are removed from the smaller pool on a five to seven year cycle.

It is recommended that wet detention ponds or constructed wetlands with a total main pool area of greater than 0.5 acres should have a forebay area to create an additional level of sediment removal and maintenance reduction.

(7)

MISCELLANEOUS MAINTENANCE

Debris and Obstructions

It is important to regularly remove any accumulation of debris, which may act to block the primary outlet, the trash rack leading into the outlet pipe, or the outlet pipe itself. If any of these items become obstructed, a rise in the pond level could occur, creating undue stress and endangering the slopes and berms. In addition, debris can promote deterioration of the slopes through abrasive actions.

Animal Burrows

Animal burrows provide a seepage path for water through the berms. Concentrated seepage can result in slope failure. All burrows should be filled in with soil or grout, topped, and seeded for erosion protection and live trapped and removed if necessary.

Riprap

Maintenance of riprap areas should be relatively minor. Any displaced riprap should be replaced. This may be occurring near the water surface, when ice accumulation can move riprap.

Riprap is placed over geotextile fabric. Roots from vegetation may act to compromise this fabric, thereby reducing its effectiveness. Therefore, all vegetation in riprap areas should be removed using methods described in subd. (3).

SECTION 21: §15-8.0613(5), Maintenance Agreement, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended to read as follows: delete “*Note: Injunctive orders are authorized pursuant to Wis. Stats., for counties, villages and towns with village powers, and cities respectively.*” And replace with “*Note: Injunctive orders are authorized pursuant to §62.23, Wis. Stats.*”

SECTION 22: §15-8.0614, Appeals, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby amended to read as follows:

SECTION 15-8.0614 APPEALS

(1) APPEALS. The Board of Zoning and Building Appeals, created pursuant to section 15-10.0200 of the City of Franklin Uniform Development Ordinance and authorized by § 62.23 (7)(e), Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision, or determination made by the City Engineer under or in the administration of the regulations set forth in this Division. The Board of Zoning and Building Appeals may affirm, reverse or modify any such order, decision or determination upon written appeal to

it, and its reasonable application of the terms and provisions of this Division and any applicable terms and provisions of the Municipal Code and Unified Development Ordinance to the facts of such appeal. Any appeal from any order, decision, or determination made by the Board of Zoning and Building Appeals under or in the administration of the regulations set forth in this Division shall be by way of certiorari to the Milwaukee County Circuit Court. Any appeal aforesaid shall be made within 30 days of the date of the making of the order, decision or determination appealed from. The Board of Zoning and Building Appeals may authorize variances that are not contrary to the public interest, and where owing to special conditions unique to the property, a literal enforcement would be an unnecessary hardship, and only where the literal enforcement of the terms of this Division would result in no reasonable use of the property. Any uncertainty by Staff as to which process should be followed (appeal or variance) upon an application shall be determined by the City Attorney.

- (2) **WHO MAY APPEAL.** Appeals as set forth under Sub. (1) above may be taken by any aggrieved person or by an officer, department or board of the City of Franklin affected by any decision of the City Engineer or the Board of Zoning and Building Appeals.

SECTION 23 §15-8.0700, General Conditions, of the Unified Development Ordinance of Municipal Code of Franklin, Wisconsin, be and the same is hereby created to read as follows:

DIVISION 15-8.0700 GENERAL CONDITIONS

**SECTION 15-8.0701 PART 8: IMPROVEMENTS AND CONSTRUCTION PROVISIONS
CONFLICT WITH OTHER ZONING LAWS**

Pursuant to Wis. Stat. § 62.23(7)(g), wherever the provisions of this Part 8 as they may pertain to zoning and which were adopted under the authority of Wis. Stat. § 62.23(7) and impose other higher standards than are required in any other statute or City ordinance or regulation, the provisions of the regulations made under authority of Wis. Stat. § 62.23(7) shall govern. Wherever the provisions of any other statute or City ordinance or regulation require or impose other higher standards than are required by the regulations made under authority of Wis. Stat. § 62.23(7), the provisions of such statute or City ordinance or regulation shall govern.

**SECTION 15-8.0702 PART 8: IMPROVEMENTS AND CONSTRUCTION PROVISIONS
CONFLICT WITH OTHER LAND DIVISION LAWS**

Pursuant to Wis. Stat. § 236.45 (2)(ac), the provisions of this Part 8 as they may pertain to the subdivision or other division of land that are more restrictive than the provisions of Wis. Stat. Ch. 236 shall apply, except that no such provision may modify in a more restrictive way time limits, deadlines, notice requirements, or other provisions of Wis. Stat. Ch. 236 that provide protections for a subdivider.

SECTION 24: 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 25: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 26: 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 this _____ day of _____, 2016, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of May 19, 2016

Unified Development Ordinance Text Amendment: Erosion Control and Storm Water Management Regulation Revisions

RECOMMENDATION: Department of City Development and Engineering Department staff recommends approval of a Unified Development Ordinance Text Amendment to reflect the DNR's model ordinance (with the noted staff revisions) as they pertain to the City's erosion control and storm water management regulations.

Staff also requests Common Council approval to prepare a report on possible further changes to Part 4 and/or Part 8 of the UDO to address any possible conflicts between the buffer standards and restrictions contained within those two Parts of the UDO.

Project Name: Erosion Control and Storm Water Management Regulation Revisions

Applicant: City of Franklin

Action Requested: To consider a proposal to amend the erosion control and storm water management provisions of the Unified Development Ordinance.

Introduction:

Wisconsin Department of Natural Resources (DNR) notified Staff that:

"In accordance with Sections 3.3.1 and 3.4.1 of the City of Franklin's municipal separate storm sewer system discharge permit (WPDES No. WI-S050059-3), the City is required to amend the erosion control and storm water management ordinances to incorporate the January 1, 2011 revisions to the ch. NR 151, Wis. Adm. Code, construction site and post-construction performance standards. The City must adopt the amended ordinances by May 1, 2016 and submit copies of these ordinances to the Department by June 1, 2016.

The Department has recently published a guidance document to assist with the ordinance amendment process...."

Staff has reviewed the guidance document and incorporated the significant changes into the Franklin Storm Water Erosion Control ordinances – specifically the Unified Development Ordinance (UDO) Chapter 8. DNR staff has verified that Franklin may have a grace period to submit the ordinances to the Department as long as the City is in the process of adoption.

A non-profit organization "1000 Friends of Wisconsin" received a contract from the Milwaukee Metropolitan Sewerage District to review local regulations for barriers to green infrastructure. The contract enabled 1000 Friends of Wisconsin and its partners -- Birchline Planning LLC and Milwaukee County Environmental Services Department -- to conduct an update and expansion of the MMSD's 2005 audit of municipal codes and ordinances by the Center for Watershed

Item C.2.

Protection. 1000 Friends of Wisconsin met with Franklin Staff and has made additional suggestions for consideration.

Analysis:

The proposed changes are NOT an overhaul of the current ordinances but should be considered merely an update. A copy of Staff's recommended changes was distributed to Aldermen for advanced review time. Those changes include:

1. Greater inclusion and reference to green infrastructure.
2. Greater discussion of erosion and sediment control measures for land disturbing activities.
3. Greater discussion and inclusion of infiltration related topics.
4. Updating of best management practices (BMPs).
5. Updates to referenced documents, programs, calculations, and policies.
6. Clarification of current practices.
7. Additional relevant definitions.
8. Discussion of Maximum Extent Practicable.
9. General typographical fixes.

Staff does not believe that any of the changes will require an appreciable change in costs for the City or Developers.

Staff has received some minor suggested edits from Common Council, City Planning, City Legal, DNR, 1000 Friends of Wisconsin, and GRAEF (consultant who performs stormwater plan reviews for the City).

Future Consideration (Protective Areas/Natural Resource Protection Standards):

Please note that the Wisconsin Department of Natural Resources' requested storm water management changes include a new section pertaining to "Protective Areas" which essentially functions as lake, river, stream, and wetland buffers somewhat similar to those lake, river, stream and wetland buffers contained within the City's Unified Development Ordinance Part 4: Natural Resource Protection [see Section 15-8.0605(48) and Section 15-8.0607(4)(d) of the draft revised Ordinance].

The definition, requirements, and restrictions associated with these "Protective Areas" are set forth in Wisconsin Administrative Code NR 151.125 and 151.245. In short, the DNR states that "Protective Areas are established to minimize impacts from runoff coming from developed areas before it reaches sensitive resources. The protective area begins at the delineated boundary of the wetland. The width of the protective area is measured horizontally from the nearest edge (delineated boundary) of the wetland to the nearest edge of an impervious surface."

More specifically, rather than the UDO's current 30 foot buffer and additional 20 feet setback for wetlands, the width of the "Protective Area" for wetlands is based upon the attributes of the wetland:

Highly Susceptible: 75 feet

Neither Highly or Less Susceptible ("Moderately"): 50 feet

Item C.2.

Less Susceptible: 10% of the Average Wetland Width – Ranging from 10 to 30 feet.

And rather than the UDO's current 75 foot buffer for lakes, rivers, and streams, the width of the "Protective Area" for these is based upon:

Outstanding and Exceptional Resource Waters: 75 feet

Perennial and intermittent streams: 50 feet

Lakes: 50 feet

Concentrated flow channels with drainage areas greater than 130 acres: 10 feet

To avoid possible conflict and confusion between these differing buffer widths, the Department of City Development and Engineering Department staff has proposed in this re-draft of Part 8 of the UDO that the most restrictive buffer widths shall apply.

However, staff has not addressed the differing standards and restrictions associated with these buffers as herein proposed in Part 8 of the UDO as they may compare to those in Part 4: Natural Resource Protection of the UDO. To bring these two Sections of the UDO in line with one another, staff requests Common Council approval to prepare a report on possible further changes to Part 4 and/or Part 8 of the UDO to address any such conflicts.

Conclusion:

Department of City Development and Engineering Department staff recommends approval of a Unified Development Ordinance Text Amendment to reflect the DNR's model ordinance (with the noted staff revisions) as they pertain to the City's stormwater regulations