ORDINANCE 2013-48

TO BE ENTITLED: "AN ORDINANCE TO AMEND TITLE 23 OF THE CITY OF FRANKLIN MUNICIPAL CODE TO REVISE DEFINITITIONS, CLARIFY REQUIREMENTS, AND TO CORRECT GRAMMATICAL AND TYPOGRAPHICAL ERRORS."

WHEREAS, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of Franklin, Tennessee the Board of Mayor and Aldermen is authorized to prescribe regulations and standards that encourage and advance the quality of life within the City; and

WHEREAS, in the legislative judgment of the Board of Mayor and Aldermen the Board has found that ordinances and policies that regulate land use, guide the maintenance of the City's infrastructure, and deliver essential services must be dynamic and modified from time to time to reflect changes in best practices, model codes, land and labor costs, and safety standards necessary to preserve and promote the private and public interest; and

WHEREAS, the Board of Mayor and Alderman desires to prescribe regulations and standards to manage stormwater runoff within the City in order to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and the Tennessee Water Quality Control Act of 1977; and

WHEREAS, the Board of Mayor and Alderman has decided to clarify certain subsections of this Title and correct grammatical and typographical errors.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Title 23 – Stormwater Management Ordinance of the Franklin Municipal Code is hereby amended to read as follows:

TITLE 23

STORMWATER MANAGEMENT

CHAPTER 1

STORMWATER MANAGEMENT ORDINANCE

SECTION

23-101. Title and purpose. This ordinance shall be known as the "Stormwater Management Ordinance" for the City of Franklin, Tennessee.

This ordinance is intended to manage the manner in which Stormwater is addressed in areas of new Development, and Redevelopment through the course of construction and post-construction to maintain or benefit water quantity, water quality and the effects on the quality of life and character of the City of Franklin, Tennessee. This ordinance sets general policy, minimum requirements and standards, and Stormwater management program direction and is supported and enforced through other more detailed regulations, design criteria, and other accepted materials.

23-102. Jurisdiction. (1) The Stormwater Management Ordinance (Title 23) shall govern all properties within the corporate limits of the City of Franklin, Tennessee.

(2) Exemptions from article. The following Development activities shall be exempt from the provisions of this article and requirements of providing Stormwater management:

(a) Agricultural land management activities.

(b) Additions or modifications to existing detached single-family dwellings that disturb less than 5,000 square feet of additional land use. Lots classified as critical lots as defined in the current Zoning Ordinance, regardless of the amount of land disturbed, are not exempt.

(c) Developments that do not disturb more than 5,000 square feet of land use. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to development in Critical Areas. This exemption does not apply to any discharge of sediment or other forms of water pollution that may leave a small Site.

23-103. Definitions. For the purpose of this Title, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage

and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive. The following definitions shall apply in the interpretation of this Title and in any regulations promulgated hereunder, unless specifically stated otherwise:

(1) "100-Year Flood Event." See Base Flood.

(2) "Active Channel." The portion of the stream Channel that is subject to frequent flows (approximately once every two (2) years) and the portion of the Channel below the Floodway.

(3) "Active Construction Sites." Any Site that has a permit for Grading or other activities (even if actual construction is not proceeding) and any Site where construction is occurring regardless of permits required.

(4) "Appeal." A request for a review of the City Engineer's interpretation of any provision of these regulations.

(5) "Architect." An Architect duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of Building architecture.

(6) "Base Flood." The Flood having a one percent (1%) chance of being equaled or exceeded in any given year. While this statistical event may occur more frequently, it may also be known as the "100-Year Flood Event."

(7) "Best Management Practice" or "BMP." Practices or a combination of practices that are the most effective and practicable (including technological, economic, and institutional considerations) means of controlling Pollutants at levels compatible with environmental quality goals. This includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution of Water Resources. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

~~(8) "Blue Line Streams." Streams that are represented on the United States Department of the Interior Geological Survey (USGS) 1:24,000 quadrangle maps.~~

~~(9)~~(8) "BMP Treatment Train." A technique for progressively selecting various Stormwater management practices to address water quality, by which groups of practices may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs and space.

~~(10)~~(9) "Bridge." A manmade structure spanning and providing passage over a waterway to allow for the conveyance of Stormwater flows. Spans of twenty feet (20') or more are considered a Bridge.

~~(11)~~(10) "Buffer Management Plan." A written integrated plan outlining the utilitarian, ecological and aesthetic objectives for a specific landscape, and the landscape management practices and products that will be employed.

~~(12)~~(11) "Building." Any Structure built for support, shelter, or enclosure for any occupancy or storage.

~~(13)~~(12) "Channel." A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined Channel.

~~(14)~~(13) "City." The City of Franklin, Tennessee.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(15)~~(14) "City Engineer." Refers to the City of Franklin, City Engineer who has the authority to delegate to designated staff, which includes, but is not limited to, the Director of Engineering, Staff Engineers, the Stormwater Management Coordinator, Water Quality Specialists and the Stormwater Inspectors.

~~(16)~~(15) "Climax Successional Vegetation." The native plant community that would become established on a Site if all successional sequences were completed without interferences by man under the present environmental conditions. Natural disturbances are inherent in its Development.

~~(17)~~(16) "Compensatory Cut." Excavated volume of material below the Floodplain elevation required to offset Fill in the Floodplain.

~~(18)~~(17) "Culvert." A manmade conveyance of Stormwater flows. This may include a pipe or other constructed conveyance of less than twenty feet (20').

~~(19)~~(18) "Cross-Drain." A Culvert used to convey flow under a road or other obstruction between Channels or surface flow.

~~(20)~~(19) "Critical Area." A Site subject to Erosion or sedimentation as a result of Cutting, Filling, Grading, or other disturbance of the Soil; a Site difficult to stabilize due to exposed subsoil, steep Slope, extent of exposure, and other conditions.

~~(21)~~(20) "Critical Design-Storm Period." Refers to the time frame in which Detention volume must be controlled with the pre-development flow volume as a maximum limit. It assumes a design period for an NRCS (formerly SCS) type II design storm. This is a Watershed specific parameter that may be specified by the City Engineer, but may be assumed as ten (10) to fourteen (14) hours for small and medium Watersheds (order of less than ten (10) square miles) and ten (10) to eighteen (18) hours for large Watersheds (order of ten (10) to forty (40) square miles).

~~(22)~~(21) "Critical Service Roads." Designated City evacuation routes, or other access to police, fire, emergency medical services, hospitals, or shelters.

~~(23)~~(22) "Cut." Portion of land surface or area from which earth has been removed or will be removed by Excavation; the depth below original ground surface to the excavated surface.

~~(24)~~(23) "Detention." The temporary delay of storm runoff prior to discharge into receiving waters.

~~(25)~~(24) "Developer." Any individual, firm, corporation, association, partnership, trust, or authorized agents involved in commencing proceedings to effect Development of land for him/her or others.

~~(26)~~(25) "Development." Any man-made change to improved or unimproved real estate, including but not limited to, Buildings or other Structures, mining, dredging, Filling, Grading, paving, excavating, drilling operations, or permanent storage of materials (as defined as materials of like nature stored in whole or in part for more than six months).

~~(27)~~(26) "Drainage Basin." A part of the surface of the earth that is occupied by and provides surface water runoff into a Stormwater Management System (MS4 or Waters of the State), which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

~~(28)~~(27) "Drainage Well." A bored, drilled, driven, dug, or naturally occurring shaft or hole with a depth greater than the largest surface dimension, used to drain surface fluid, primarily storm runoff, into a subsurface or karst formation. Also known as "dry well" or "sinkhole."

~~(29)~~(28) "Ecological Integrity." The quality of a natural unmanaged or managed ecosystem in which the natural ecological processes are sustained, with genetic species diversity and ecosystem diversity assured for the future.

~~(30)~~(29) "Engineer" or "Professional Engineer." An Engineer duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of civil engineering.

~~(31) "Ephemeral Stream." See Wet-Weather Conveyance.~~

~~(32)~~(30) "Erodible Soils." Soils that are likely to have high Soil loss when exposed to water runoff.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(33)~~(31) "EP&SC." Erosion Prevention and Sediment Control; see "Erosion Prevention" and "Sediment Control."

~~(34)~~(32) "Erosion." ~~The disintegration or wearing a way of Soil by the action of water in the form of flowing water or precipitation impact.~~ The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

~~(35)~~(33) "Erosion Prevention (EP)." Practices implemented to prevent, through shielding, binding or other mechanism(s), the suspension of Soil particles, often associated with Erosion Prevention and sedimentation control.

~~(36)~~(34) "Excavation." See Cut.

~~(37)~~(35) "Existing Grade." The Slope or elevation of existing ground surface prior to Cutting or Filling.

~~(38)~~(36) "Existing Construction." Any Structure for which the "start of construction" commenced before the effective date of these regulations.

~~(39)~~(37) "Fill." Portion of land surface or area to which Soil, rock, or other materials have been or will be added; height above original ground surface after the material has been or will be added.

~~(40)~~(38) "Finished Grade." The final Slope or elevation of the ground surface, after Cutting or Filling.

~~(41)~~(39) "Flood or Flooding." Water from a river, stream, watercourse, lake, or other body of standing water that temporarily overflows and inundates adjacent lands and which may affect other lands and activities through increased surface water levels and/or increased groundwater level.

~~(42)~~(40) "Floodplain." The relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water, which has been or may be covered temporarily by Floodwater. For purposes of this Title, the Floodplain is defined as the 100-year Floodplain having a one percent (1%) chance of being equaled or exceeded in any given year.

~~(43)~~(41) "Floodway." That portion of the stream Channel and adjacent Floodplain required for the passage or conveyance of a 100-year Flood discharge. The Floodway boundaries are placed to limit encroachment in the Floodplain so that a discharge can be conveyed through the Floodplain without materially increasing (less than one (1) foot) the water surface elevation at any point and without producing hazardous velocities or conditions. This is the area of significant depths and velocities and due consideration should be given to effects of Fill, loss of cross sectional flow area, and resulting increased water surface elevations.

~~(44) "Floodway Fringe." That portion of the Floodplain lying outside the Floodway.~~

~~(45)~~(42) "Floor." The top surface of an enclosed area in a Building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(46)~~(43) "Functionally Dependent Facility." A facility that cannot be used for its intended purpose unless it is located or carried out in proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

(44) "Grading." Any operation or occurrence by which the existing Site elevations are changed; or where any ground cover, natural, or man-made, is removed; or any watercourse or body of water, either natural or man-made, is relocated on any Site, thereby creating an unprotected area. This includes Stripping, cutting, Filling, stockpiling, or any combination thereof, and shall apply to the land in its Cut or Filled condition. Grading activities may only be performed with a Stormwater Management Permit and Grading permit.

(45) "Green Infrastructure." The interconnected network of natural areas and other open spaces that conserves natural ecosystem values and functions, sustains clean air and water, and provides environmental and community benefits.

~~(47)~~(46) "Green Infrastructure Practices." Management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use rainwater through the use of natural hydrologic features.

~~(48)~~(47) "Greenways." Linear undeveloped areas linking various types of Development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and areas immediately adjacent to the pathway.

~~(49)~~(48) "Greenway Right-of-Way." Property that has been designated for use by the City in support of greenway activities. This may include, but does not require, the use of trails or walkways to provide access to the general public. A greenway that is not defined with a right-of-way may have restricted access (i.e., not accessible to the general public).

~~(50)~~(49) "Highest Adjacent Grade." The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a Structure.

~~(51)~~(50) "Historic Structure Designation." Any Structure that is: listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historical district or a district preliminarily determined by the secretary to qualify as a registered historic district; or listed individually on a state or local inventory of historic places which have been approved by the Secretary of the Interior.

~~(52)~~(51) "Hot Spot". An area where land use or activities generate highly contaminated runoff, with concentrations of Pollutants in excess of those typically found in Stormwater. Examples include, but are not limited to, operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

~~(53)~~(52) "Illicit Connections." Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the MS4, including, but not limited

to, any conveyances which allow any non-Stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the City.

(53) "Illicit Discharge." Any discharge to a Municipal Separate Storm Sewer System (MS4) that is not entirely composed of Stormwater, except discharges authorized under an NDPES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.

(54) "Impaired Waters". Any segment of surface waters that has been identified by the Tennessee Department of Environment and Conservation (TDEC) as failing to support classified uses. The TDEC periodically compiles as list of such waters known as the "303(d) List".

(55) "Impervious Surface." A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

~~(56) "Intermittent Stream." Streams that have flowing water under normal weather conditions. During the dry season and throughout minor drought periods, these streams will not exhibit flow. Geomorphological characteristics are not well defined and are often inconspicuous. In the absence of external limiting factors (pollution, thermal modifications, etc.) biology is scarce and adapted to the wet and dry conditions of the fluctuating water level.~~

~~(57)~~(56) "Invasive Exotic Plants." Plants that have been introduced from other regions and compete so successfully against ~~other~~ natives plants that they can crowd out their competitors, thus providing a monoculture that discourages the growth of ~~other~~ native plant species.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(58)~~(57) "Landscape Architect." A Landscape Architect duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of Landscape Architecture.

(58) "Land Surveyor." A Land Surveyor duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of land surveying.

(59) "Long Term Maintenance Agreement" or "Maintenance Agreement." A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

~~(59)~~(60) "Maintenance." Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

~~(60)~~(61) "Master Plan." Any study or plan prepared by or accepted by the City of Franklin that identifies solutions to water quantity or quality problems. Also known as basin study or plan, Flood management study or plan or water quality management study or plan.

(62) "Municipal Separate Storm Sewer System (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: ~~designed or used for collecting or conveying Stormwater, which is not a combined sewer nor a part of a~~

~~Publicly Owned Treatment Works (POTW), that are owned or operated by a State, city, county, district, association or other public body having jurisdiction over the disposal of Stormwater that discharges to Waters of the State.~~

a. Owned or operated by a state, city, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdicition over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state:

b. Designed or used for collecting of conveying stormwater;

c. Which is not a combined sewer:

d. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

~~(61)~~(63) "Native Vegetation." The normal vegetation that grows or would reestablish normally after a disturbance. This does not include ~~i~~Invasive ~~e~~Exotic ~~species~~ Plants.

~~(62)~~(64) "Natural Ground Surface." The ground surface in its original state before any Grading, excavating, or Filling.

~~(63)~~(65) "New Construction." Structures for which the "start of construction" commenced on or after the effective date of these regulations. The term also includes any subsequent improvements to such Structures.

~~(64)~~(66) "National Pollution Discharge Elimination System (NPDES) MS4 Phase II program." A comprehensive program to manage the quality of Stormwater discharged from the MS4 of small communities.

~~(65)~~(67) "NRCS." National Resources Conservation Service.

~~(66)~~(68) "Passive Recreation." Recreation activities that require limited physical exertion on behalf of the participant. Examples of Passive Recreation activities include bird watching, walking or photography.

~~(67)~~(69) "Peak Runoff." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

~~(68)~~(70) ~~"Perennial Stream." Streams that have flowing water continuously recharged by groundwater or surface runoff regardless of weather conditions. It exhibits well-defined geomorphological characteristics and in the absence of pollution, thermal modifications, or other man-made disturbances has the ability to support aquatic life. During hydrological drought conditions, the flow may be impaired.~~

~~(69)~~(71) "Pollutant." Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded and abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a Building or structure; sediment; and noxious or offensive matter of any kind.

~~(70)~~(72) "One Hundred-Year Flood." A Flood that has an average frequency of occurrence of once in one hundred (100) years, determined from an analysis of Floods on a particular watercourse and other watercourses in the same general region. Statistically, it has a one

Formatted: Numbered + Level: 2 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

percent chance of occurring in any given year. See "Base Flood" and "100-Year Flood Event."

~~(71)~~(73) "Permittee." Any person, firm, or any other legal entity to ~~whom~~which a Site disturbance, Grading, Building or other related permit is issued in accordance with City of Franklin regulations.

(74) "PUD." Planned Unit Development.

~~(72)~~(75) "Qualified Hydrologic Professional" or "QHP". A person who is duly registered, licensed or otherwise authorized by the State of Tennessee to perform hydrologic determinations and is certified as a Tennessee Qualified Hydrologic Professional.

~~(73)~~(76) "Redevelopment." The alteration of developed land that disturbs 5,000 square feet or more and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. Demolition and reconstruction is considered Development and not Redevelopment. Note: Redevelopment is not intended ~~to include~~to include such activities as exterior remodeling, which would not be expected to cause adverse Stormwater quality impacts.

~~(74)~~(77) "Regional Stormwater Management Facility." A device or management practice, typically but not always a Detention or Retention pond, with a Tributary Area with more than one Development Site. This may be multiple homogeneous land use areas or an area of various land uses.

(78) "Retention." The prevention of storm runoff from direct discharge into receiving waters. Examples include Systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation processes.

~~(75)~~(79) "Riparian Buffer." An undisturbed area, measured from Top of Bank of the Water Resource, which consists of a Riparian Zone comprised of Native Vegetation, original or re-established, bordering Streams, , seeps, springs, w~~W~~etlands, sinkholes, lakes and other Water Resources.

~~(76)~~(80) "Riparian Zone." Areas adjacent to ~~river, lakes, ponds, streams, and other natural~~ Water Resources with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This ~~zone~~ area provides a transition from an aquatic ecosystem to a terrestrial ecosystem.

~~(77)~~(81) "SCS." Soil Conservation Service.

~~(78)~~(82) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its Site of origin by air, water, or gravity as a product of Erosion.

~~(79)~~(83) "Sediment Control (SC)." Practices implemented to manage through filtering, settling or other mechanism(s) to remove suspended particles (Soil, organic or mineral) from water, often associated with Erosion Prevention and sedimentation control.

~~(80)~~(84) "Sensitive Areas." Areas that supply critical habitat in supporting aquatic or semi-aquatic life such as S~~s~~treams, sinkholes, springs, Wetlands, ponds, etc.

~~(81)~~(85) "Site." All contiguous land and bodies of water in one ownership, graded, proposed for Grading or Development as a unit, although not necessarily at one time.

~~(82)~~(86) "Slope." Degree of deviation of a surface from the horizontal, usually expressed in percent or ratio.

~~(83)~~(87) "Soil." All unconsolidated mineral and organic material of any origin that overlies bedrock and that can be readily excavated.

~~(84)~~(88) "Soil Engineer." A Professional Engineer who is qualified, licensed and/or registered in the State of Tennessee to practice applied Soil mechanics and foundation engineering.

~~(85)~~(89) "Stabilization." The measures, vegetative and/or structural, taken that will prevent Erosion from occurring.

~~(86)~~(90) "Stop Work Order." An order directing the Developer and/or Permittee responsible for the Development to cease and desist all or any portion of the work which violates the provisions of this Title.

~~(87)~~(91) "Stormwater." Storm event runoff, snowmelt runoff, and surface runoff and drainage.

~~(88)~~ (92) "Stormwater Management Plan." A document that is submitted to the City Engineer, in accordance with concept plans, regulating plans, and/or Site plans which shows, in detail, that a Site meets the standards set forth in this ordinance and allows the city to evaluate the environmental characteristics of the Site, the potential impacts of all proposed Development of the Site, both present and future, on the Water Resources and the effectiveness and acceptability of the measures proposed for managing Stormwater generated at the Site.

a. ~~(90)~~(93) "Stormwater Management Permit." A permit issued by the City Engineer that allows Stormwater discharge into the City of Franklin's MS4 in accordance with this Title.

~~(89)~~(92) "Stormwater Pollution Prevention Plan (SWPPP)." A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed and maintained during land disturbing activates. The SWPPP shall be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook or local BMP Manual, whichever is more stringent and protective of waters of the state. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations.

~~a.~~(93) "Stream." Surface water that is not a Wet-Weather Conveyance as determined by a Qualified Hydrological Professional and approved by the City Engineer ~~or MS4~~.

~~(90) "Streamside Buffer." An undisturbed area, measured from Top of Bank of the Water Body, which consists of Native Vegetation, original or re-established, bordering streams, springs, Wetlands, sinkholes and other Waters of the State.~~

~~(91)~~(94) "Stripping." Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

~~(92)~~(95) "Structure." Anything constructed or erected, the use of which requires a permanent location on or in the ground. Such construction includes but is not limited to objects such as Buildings, towers, smokestacks, carports, and walls.

~~(93)~~(96) "Top of Bank". The ordinary high water level and break in Slope for a ~~water basin or Wetland, and the break in Slope for a watercourse~~Water Resource.

Formatted: Numbered + Level: 2 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(94)~~(97) "Tributary Area." The area upstream of a specified point including all overland flow that directly or indirectly connects down-slope to the specified point.

~~(95)~~(98) "View Corridors." Areas associated with formal trail systems closer than the required buffer width approved by the City Engineer with an approved Buffer Management Plan.

~~(96)~~a. ~~"Water Body." A Channel, natural depression, slough, gulch, stream, creek, pond, reservoir, or lake in which storm runoff and Floodwater flows either regularly or infrequently. This includes major drainage ways for carrying storm runoff.~~

Formatted: Numbered + Level: 2 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

~~(97)~~(99) "Water Resources." ~~Perennial, intermittent, and Ephemeral~~ Streams, seeps, springs, ~~W~~wetlands, sinkholes, lakes or Channels serving more than twenty five (25) acres of Tributary Area~~Waters of the State as defined below~~, as determined by the City Engineer.

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

~~(98)~~(100) "Waters of the State." Any and all water~~s determined to be in the jurisdiction of the Tennessee Department of Environment and Conservation (TDEC) which may be~~ , public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or affect a junction with natural surface or underground waters. ~~Waters of the State are separate and distinct from an MS4 and private infrastructure. Waters of the State includes Perennial and Intermittent Streams.~~

Comment [DP1]: Need to define TDEC separately if deleted here.

~~(99)~~(101) "Water Quality Buffer" See ~~Streamside~~ Riparian Buffer.

~~(100)~~(102) "Watershed." All the land area that contributes runoff to a particular point along a Water ~~Body~~Resource.

~~(101)~~(103) "Wet Weather Conveyance." Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, whose Channels are above the groundwater table and which do not support fish and aquatic life and are not suitable for drinking water supplies, and in which hydrological and biological analysis indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

~~(102)~~(104) "Wetland." Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do ~~support,~~support a prevalence of vegetation typical to life in saturated Soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas. ~~They~~ Wetlands are designated by federal or state organizations with this responsibility.

23-104. Authority. (1) Authority of departments. The City Administrator may provide authority in part or whole to various departments for the implementation of activities pursuant to this Title. This authority may include but is not limited to plan review, incentives negotiation, plan approval and Stormwater facilities maintenance. The City Engineer shall have the authority of administration and enforcement of the provisions established pursuant to this Title, including, but not limited to, the issuance of civil penalties.

(2) Right-of-entry.

(a) Designated City staff shall have right of entry on or upon the property of any person subject to this Title and any permit/document issued hereunder. The City staff shall be provided ready easy access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any duties necessary to determine compliance with this Title.

(b) Where a property, Site or facility has security measures in force which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the designated City staff will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) Designated City staff shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or monitoring of the person's Stormwater operations or discharges.

(d) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the City staff. The costs of clearing such access shall be borne by the person.

(e) The City Engineer may inspect the facilities of any user in order to ensure compliance with this Title. Such inspection shall be made with the consent of the owner, manager, or signatory official. If such consent is refused, denied or not promptly addressed, the designated City staff may seek issuance of an administrative search warrant.

(f) The City has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to, the following:

(i) An initial inspection prior to Stormwater Management Plan approval;

(ii) A bury inspection prior to burial of any underground drainage structure;

(iii) Erosion control inspections as necessary to ensure effective control of Erosion and sedimentation; and

(iv) A finish inspection when all work, including installation of storm management facilities, has been completed.

(v) Regular or random follow-up inspections to ensure the storm management facilities remain in compliance.

23-105. Appeals. Appeals of this Section shall be pursuant to ~~FMC~~ Franklin Municipal Code section 23-301 et seq.

23-106. Objectives and policy. (1) Objectives. The objectives of this Title are pursuant to the Small MS4 Permit issued by the State to the City and are as follows:

(a) To protect human life and health.
(b) To minimize the need for rescue and relief efforts associated with Flooding.
(c) To eliminate any non-allowable discharges to the City's MS4 that impact water quality.
(d) To help maintain a stable tax base by providing for the sound use and Development of Flood-prone areas in such a manner as to maximize

beneficial use without increasing Flood hazard potential or diminishing the quality of the natural Stormwater resources.

(e) To ensure that potential homebuyers are notified that property is in a Flood area and generally increase the public awareness of Flooding potential.

(f) To minimize prolonged business interruptions.

(g) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sanitary sewer lines; and streets and Bridges located in Floodplains.

(h) To ensure a functional public and private Stormwater quantity and quality Management System that will not result in excessive maintenance costs.

(i) To encourage the use of natural and aesthetically pleasing design ~~that maximize~~that maximizes preservation of natural areas.

(j) To guide the construction of Stormwater management facilities by developing comprehensive Master Plans to address Stormwater quantity and quality.

(k) To encourage preservation of Floodplains, Floodways and open spaces to protect and benefit the community's quality of life and natural resources.

(l) To encourage community stewardship of the ~~City's Water~~City's Water Resources and their impacts on the community character and quality of life.

(2) Implementation. To implement the objectives presented above, the following standards and general policy statements shall be enforced:

(a) All new Development and Redevelopment under the jurisdiction of this Title shall be required to obtain a Stormwater Management Permit.

(i) The City Engineer shall issue a Stormwater Management Permit for Stormwater Management Plans that meet the guidelines of this ordinance and any other provision given authority under Section 23-111 of this Title. Application for a permit shall be accompanied by a fee as specified in Title 22 – Comprehensive Fees and Penalties.

(ii) Technical, administrative, or procedural matters may be modified as needed to meet the objectives and policies defined in this ordinance, so long as such modifications as to technical, administrative, or procedural matters are not contrary or beyond the intent of the objectives and policies of this ordinance.

(iii) Approved permits shall be displayed in a conspicuous location on all Active Construction Sites.

(b) All new Development and Redevelopment under the jurisdiction of this Title shall be required to obtain a Grading Permit.

(i) The City Engineer shall issue a Grading Permit for Grading and EP&SC plans that meet the guidelines of this ordinance and any other provision given authority under Section 23-111 of this Title. Application for a permit shall be accompanied by a fee as specified in Title 22 – Comprehensive Fees and Penalties, Chapter 23 – Stormwater Management Ordinance.

(ii) Technical, administrative, or procedural matters may be modified as needed to meet the objectives and policies defined in this ordinance, so long as such modifications as to technical, administrative, or

procedural matters are not contrary or beyond the intent of the objectives and policies of this ordinance.

(iii) A pre-construction meeting with the City Engineer shall be held with construction Site operators prior to the issuance of a Grading Permit.

(iv) Approved permits shall be displayed in a conspicuous location on all Active Construction Sites

(c) An Engineer shall stamp all proposed plans for construction in the City. This shall include all proposed improvements or modifications to the existing or new Stormwater infrastructure, Erosion Prevention and Sediment Control practices, and other related improvements or modifications.

(d) If applicable, each individual project shall be evaluated for consistency with the master Stormwater Management Plan for the major Watershed or Watersheds within which the project Site is located. The individual project evaluation will determine if Stormwater quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.

(e) In the absence of such a Stormwater quantity and/or quality Master Plan, a system of uniform requirements shall be applied to each individual project Site. In general, these uniform requirements will be based on the criteria that post-development Stormwater peak runoff, volume over the Critical Design-Storm Period and water quality must not differ significantly from pre-development conditions. These criteria shall be included in the Stormwater Management Plan for the Site.

(f) Under no circumstances shall a Site be graded or drained in such a way as to increase surface runoff to sinkholes, dry wells or Drainage Wells.

(g) Stormwater Detention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the Critical Design-Storm Period. This shall be applied for 2-, 10-, 25-, 50-and 100-year design-storm events.

(h) New Development shall meet a Stormwater quantity level of service defined by:

(i) Designing road catch basins and connecting Culverts to convey the 10-year design-storm runoff.

(ii) Designing Bridges, Culverts, Channels and Cross-Drains to pass the 25-year design-storm runoff for flows less than 5,000 cubic feet per second (cfs).

(iii) Designing Bridges, Culverts, Channels and Cross Drains to pass the 50-year design-storm runoff for flows greater than or equal to 5,000 cfs.

(iv) Detaining at least the runoff from a 25-year design-storm runoff (50-or 100-year) for ponds serving Critical Service Roads.

(v) Providing emergency bypass of 50-and 100-year design storm runoff for all ponds not required to detain the 50 or 100-year design-storm event.

(i) Stormwater infrastructure shall be designed in a way that:

(i) Critical Service Roads are not inundated by more than three inches of water over one-half (1/2) the roadway width under a 100-year design-storm event.

(ii) Other existing roads (as impacted by new or existing Development) shall be designed to have no more than nine inches (9") of runoff overtopping the road for a 25-year design-storm event.

(iii) Other new roads shall be designed to have no more than six inches (6") of runoff overtopping the road for the 25-year design-storm event.

~~(j) Development will be required to minimize the impact to Stormwater quality by applying structural and/or nonstructural management practices selected to address Site-specific conditions. The water quality treatment for the runoff resulting from a rainfall depth of 1.1 inches shall be a goal of ninety percent (90%) and a minimum of eighty percent (80%) total suspended solids removal through a BMP Treatment Train. A description of the BMP Treatment Train shall be included in the Stormwater Management Plan.~~

~~(k)~~(j) A ~~long-term maintenance plan~~ Long Term Maintenance Plan and Maintenance Agreement shall be submitted for review and approval by the City Engineer for all devices or facilities in new Development and Redevelopment that require more than general maintenance (i.e., mowing, weeding, etc.). The plan shall address schedules and techniques for inspections and removing trash, Pollutants and Sediment. Documentation of the inspection schedule, times of inspection, remedial actions take to repair, modify or reconstruct the system and the state of control measures shall be submitted to the City Engineer on or before July 1st of each year.

~~(l)~~(k) For properties where Stormwater quantity management practices are either not feasible or are not necessary in lieu of regional Stormwater quantity controls, the City has the right to require on-Site controls for Stormwater quality.

~~(m)~~(l) The City encourages regional Stormwater quantity management practices, serving forty (40) to three hundred (300) acres of Tributary Area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or reduce the implementation of on-Site Stormwater quantity management practices, as appropriate as determined by the City Engineer. Regional Stormwater quality management practices, while not necessarily typical, are allowed in the same manner as Stormwater quantity management practices.

~~(n)~~(m) Redevelopment of properties containing on-Site Stormwater management practices may be permitted, at the discretion of the City Engineer, provided the property and downstream public and private properties, infrastructure or Waters of the State are adequately protected by a regional facility(s) from Stormwater quantity or quality impacts.

~~(o)~~(n) No construction, whether by private or public action, shall be performed in a manner that will negatively impact Stormwater quantity or quality in its vicinity or in other areas whether by flow restrictions, increased runoff, or by diminishing Channel or Floodplain storage capacity.

~~(p)~~(o) New Construction shall not aggravate upstream or downstream Flooding. Existing downstream or upstream problems may be required to be corrected in conjunction with new Development or Redevelopment.

~~(q)~~(p) Unwarranted acceleration of Erosion or sedimentation, or transport of other Pollutants or forms of Pollution, due to various land Development activities shall be controlled.

~~(r)~~(q) New Construction shall only be permitted after temporary or permanent Erosion Prevention and Sedimentation Control management practices have been placed or constructed and are operational to the City's satisfaction, and a Grading permit has been issued. The City may stop construction on properties, or administer other enforcement actions as defined in Section 23-108 of this Title, that do not have adequate Erosion Prevention and sedimentation control measures.

~~(s)~~(r) Soil bioengineering, "green" and other "soft" Slope and stream bank Stabilization methods shall receive preference over riprap, concrete and other hard armoring techniques. "Hard" alternatives shall only be permitted when their necessity can be demonstrated given Site-specific conditions.

~~(t)~~(s) The City may require more stringent Erosion Prevention and Sedimentation Control practices on properties adjacent to Impaired Waters, or within ~~sensitive (or impaired)~~ Impaired Watersheds, Watersheds with TMDLs, or sites in close proximity to ~~Waters of the State~~Water Resources . This may include measures that limit or eliminate, with a greater safety factor, the potential for Sediment or other forms of water pollution from entering Sensitive Areas as designated by the TDEC or the City Engineer.

~~(u)~~(t) The City may require maintenance or modification of Stormwater management practices that are not operating within the guidelines established by this Title, as determined by the City Engineer.

~~(v)~~(u) All Active Construction Sites shall be inspected weekly, and no more than 24 hours before and within 24 hours after a predicted 0.25-inch rain event or greater, or in accordance with the requirements of the Tennessee General Construction Permit (whichever is more stringent) by a certified Tennessee Erosion Prevention and Sediment Control, Level 1 inspector (or equivalent) to ensure Erosion Prevention and Sediment Controls are not damaged and are effective. It is not the City's intent to penalize proper maintenance and mitigation of failed management practices, but rather to ensure that potential and actual failures are promptly recognized and addressed expeditiously and effectively. The City may issue a Stop Work Order demanding that construction be stopped on properties, or administer other enforcement actions as defined in Section 23-112 of this Title, that do not or are not able to provide on-Site documentation that proper inspection and maintenance activities were performed on Erosion Prevention or Sediment Control measures.

~~(w)~~(v) The design-storm for Erosion Prevention and Sediment Control practices shall be as described in the City of Franklin Stormwater BMP Manual and consistent with the Tennessee General Construction Permit.

~~(x)~~(w) The City encourages the use of greenway rights-of-way for appropriate properties.

~~(y)~~(x) Floodplain Alterations or Filling shall not cause a net decrease in Flood Storage capacity below the projected One-Hundred Year Flood elevation unless it is shown that the proposed Alteration or Filling will not cause an increase in the high water level, increase velocities, or aggravate Flooding on other properties and will not unduly restrict Flood flows. Compensatory Cut shall at least be applied in equal amounts (1:1) for all Fill in the Flood Plain. Compensatory Cut shall at least be applied to one hundred fifty-percent (150%) (1.5:1) for all Fill in Floodplains with waterway reaches determined to be impacted by localized Flooding not dominated by waterway backwater effects, as determined by studies accepted or performed by the City. Floodplain may be used for application of water quality devices. This may only be permitted provided EP&SC, water quality, and Cut-Fill policies are adequately addressed as determined by the City according to the provisions in Section 23-111 of this Title. Detention/retention volumes in the Floodplain shall count as Fill if applied in a manner where Floodplain storage is lost.

~~(z)~~(y) The City may apply incentives for Floodplain management strategies applied beyond those required by this ordinance, as approved during the plan review process.

(i) Strategies beyond those required may include, but not limited to:
   (A) Extra (twenty percent (20%) more than required) Floodplain storage developed (Cut).
   (B) Greenways that are dedicated to the City.
   (C) Eroding waterways are restored or Stabilized with bioengineering or "green" approaches.
   (D) New and innovative technologies are applied to address water quantity or quality.
   (E) Other management strategies acceptable to the City according to the provisions of Section 23-111 of this Title.

(ii) If the above management strategies are applied in a manner acceptable to the City, then the City may apply incentives including, but not limited to:
   (A) Modification to density, trees or other Development requirements acceptable to the City Engineer and Planning Department and approved by the Board of Mayor and Aldermen and/or the Franklin Municipal Planning Commission.
   (B) Other incentives according to the provisions of Section 23-111 of this Title.

~~(aa)~~(z) The construction and financing of any required off-Site drainage improvement necessitated by private Development within the same Watershed shall be the responsibility of the Developer.

~~(bb)~~(aa) Any Stormwater management facility or BMP which services individual property owners or subdivisions shall be privately owned with general routine maintenance (controlling vegetative grown and removing debris) provided for by the owner(s). The owner shall maintain a perpetual, non-exclusive easement, which allows for access for inspection and other maintenance by the City.

~~(ee)~~(bb) Any Stormwater management facility or BMP which services an individual subdivision in which the facility or BMP is within designated open areas or an amenity with an established homeowners association shall be privately owned and maintained consistent with provisions of this ordinance. The owner shall maintain a perpetual, nonexclusive easement, which allows for access for inspection and emergency maintenance by the City.

~~(dd)~~(cc) Any Stormwater management facility or BMP which services commercial and industrial Development shall be privately owned and maintained consistent with the provisions of this Title. The City has the right, but not the duty to enter premises for emergency repairs through a perpetual nonexclusive easement.

~~(ee)~~(dd) All regional Stormwater management control facilities proposed by the owners, if accepted by the City Engineer and approved by the Board of Mayor and Aldermen for dedication as a public regional facility shall be publicly owned and maintained.

~~(ff)~~(ee) All other stormwater management control facilities and BMP's shall be publicly owned and/or maintained only if accepted for maintenance by the City.

~~(gg)~~(ff) The City Engineer may require dedication of privately owned Stormwater facilities, which discharge to the City's Stormwater System.

~~(hh)~~(gg) As new Development construction is completed, an "as-built" plan, certified by an Engineer and/or Land Surveyor as appropriate, must be submitted upon completion of the Stormwater management facilities included in the Stormwater Management Plan. The licensed professional shall certify that: the facilities have been constructed as shown on the "as-built" plan, and facilities meet the approved Stormwater Management Plan and specifications, or achieve the function for which they were designed. Coordinate data shall be presented in the State of Tennessee Plane system with the North American Datum 1983 (NAD83) and North American Vertical Datum (NAVD) of 1988. (as added by Ord. #2001-53,2002)

(3) Green Infrastructure – Runoff Reduction Requirements. This section shall be effective for all Development and Redevelopment under the jurisdiction of this Title submitted for plan review on or after January 1, 2014.

~~(a)~~ All new Development and Redevelopment shall utilize site design standards that reduce stormwater runoff volume through the use of Green Infrastructure Practices which are designed to infiltrate, evapotranspire, and/or reuse rainwater. The Green Infrastructure Practices shall be designed to reduce the volume of stormwater runoff using the Runoff Reduction Method (RRM) as defined in the current City of Franklin Stormwater Best Management Practices (BMP) Manual. ~~The Site design shall provide, in combination or alone, management measures that are designed, built, and maintained to infiltrate, evapotranspire, harvest and/or reuse at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. The first inch of rainfall shall be one-hundred percent (100%) managed with no discharge to Streams or the MS4.~~

~~(b)~~(a) ~~Pre-development infiltrative capacity of soils at the Site shall be taken into account in selection of runoff reduction/green infrastructure management measures.~~

~~(c)~~(b) The City Engineer may approve alternative practices in lieu of runoff reduction/ green infrastructure when Site limitations exist. Criteria to determine the circumstances under which alternatives are available shall not be based solely on the difficulty or cost of implementing practices. The determination ~~may~~ shall be based ~~on~~ one or more of the following Site limitations:

(i) Where the potential for introducing Pollutants into groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to ~~come in~~having contact with infiltrated runoff;

(iii) Where ~~Presence of~~ sinkholes or other karst features are present on ~~a~~ the Site (stamped geotechnical report shall be submitted to the City Engineer);

(iv) Where the site has a historic or archaeological significance that cannot be disturbed as determined by the State Historic Preservation Office;

(v) Where utility conflicts preclude the use of Green Infrastructure Practices;

(vi) Where steep slopes are present and slope failure may occur (stamped geotechnical report shall be submitted to City Engineer); and

(vii) Other site limitations as determined by the City Engineer.

~~(iii) Area available to create the necessary infiltrative capacity;~~

~~(iv) A Site use that is inconsistent with capture and reuse of Stormwater;~~

~~(vi)~~ Cost and difficulty of implementing green infrastructure/runoff reduction measures shall not be considered a limitation.

~~(d) The City Engineer may approve one of the following alternatives for projects that cannot meet one hundred percent (100%) of the runoff reduction requirement based on Site limitations:~~

~~(i) Pollutant Removal. The remainder of the stipulated amount of rainfall shall be treated according to §23-106(2)(j) of this Title;~~

~~(ii) Off-Site Mitigation. The implementation of runoff reduction measures at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-Site mitigation shall be for 1.5 times the volume of Stormwater runoff not managed on Site. The off-Site mitigation location and runoff reduction measured shall be approved by the City Engineer. Off-Site mitigation may be used for retrofit or Redevelopment projects, but should be avoided in areas of new Development.~~

~~(i) Payment to Stormwater Fund in Lieu of Green Infrastructure. In the event that a Site cannot meet one hundred percent (100%) runoff reduction and Pollutant removal, and cannot provide for off-Site mitigation, the City Engineer may allow the owner or Developer to make payment in a public Stormwater project fund established by the~~

Comment [DP2]: "on" doesn't need to be delted.

Formatted: Indent: Left: 1.75", No bullets or numbering

Formatted: Indent: Left: 1.75", No bullets or numbering

~~Board of Mayor and Aldermen. Payment into a public Stormwater fund shall be at a minimum 1.5 times the estimated cost of on-Site runoff reduction controls.~~

(4) Pollutant Removal. New development and redevelopment will be required to minimize the impact to stormwater quality by applying structural and/or nonstructural management practices selected to address site-specific conditions. New development and redevelopment that cannot meet one hundred percent (100%) of the RRM must implement pollutant removal BMPs that are designed and constructed in accordance with the site design standards, criteria and specifications for pollutant removal BMPs that are provided in the current City of Franklin Stormwater BMP Manual. The water quality treatment for the runoff resulting from a rainfall depth of 1.1 inches shall be a minimum of eighty percent (80%) total suspended solids (TSS) removal through appropriate use of BMP controls as detailed in the current City of Franklin Stormwater BMP Manual.

Formatted: Indent: Left: 0.5"

23-107. ~~Stream Side and Water~~ Riparian Resources Buffer Requirements. (1) A ~~Streamside~~ Riparian Buffer shall be applied to all Water Resources ~~Water Bodies serving more than twenty-five (25.0) acres of Tributary Area and Waters of the State~~ located in, or adjacent to, New Construction, Development or Redevelopment. ~~It shall require maintenance of existing buffers on all existing properties~~Riparian Buffers shall be maintained on all properties ~~as determined by the City Engineer and/or by the State~~in a manner that allows for growth of Climax Successional Vegetation. ~~It~~ The Riparian Buffer shall consist of Native Vegetation along both sides of a Water Resource ~~stream or around other Water Resources or Waters of the State~~ measured linearly perpendicular from Top of Bank~~, that shall be determined by the break in the Slope~~. Final determination shall be made by the City Engineer regarding ~~buffer~~ Riparian Buffer delineation, Top of Bank, areas where the ~~Streamside~~ Riparian Buffer shall apply and ~~buffer~~ Riparian Buffer width requirements.

(2) Riparian Buffer Sections**.** The ~~Streamside~~ Riparian Buffer ~~will~~ shall be applied in two sections: ~~**Zone 1: Streamside**~~ **Riparian Zone ~~,~~ 1** and **Riparian Zone 2: ~~Stormwater Infiltration Zone.~~** ~~All other~~ uses, other than those allowable in each zone, shall be prohibited.

(a) Riparian Zone 1 ~~– Streamside Zone~~. The function of the ~~streamside~~ Riparian Zone 1 ~~zone~~ is to protect the physical and Ecological Integrity of the ~~stream~~ Water Resource ecosystem. The ~~streamside~~ Riparian ~~z~~Zone 1 shall be retained in its natural vegetative state or enhanced to allow for Climax Successional Vegetation through the removal of Invasive Exotic Plants and the establishment of Native Vegetation. No clearing of existing Native Vegetation in the ~~Streamside Buffer~~Riparian Zone 1 shall be allowed, except as permitted in ~~§~~subsection 23-~~710(4)~~107(4) of this ~~Ordinance~~Title. ~~The target vegetation is undisturbed mature forest.~~ The ~~Streamside Zone~~Riparian Zone 1 shall begin at the ~~top of the stream bank~~Top of Bank of the ~~Active Channel~~Water Resource and extend a minimum of thirty (30) linear feet perpendicular. ~~This buffer shall be applied to Waters of the State, Wetlands, sinkholes, and springs.~~

(i) Allowable Uses within Zone 1

(A) Utility Crossings according to subsection 23-107(4)(b) of this Title. ~~Buffer Crossings for utilities and infrastructure: Attempts should be made to limit the number of road crossings across~~

~~water bodies and to minimize the width of crossings. Direct right angles should be used to cross the water bodies.~~

(B) Passive Recreation, pervious footpaths, and boardwalks~~,~~ to approach the ~~stream~~ Water Resource~~if~~ as approved by the City Engineer.

(C) Stormwater Channels as approved by the City Engineer~~:~~ ~~vegetated Channels and use of dissipating and sheet flow arrangements where appropriate to prevent Channelization and Erosion in the buffer from Stormwater runoff adjacent to the buffer from BMPs or any other aspect of the Site.~~

~~(C)~~(D) Stabilization practices to prevent Channelization and Erosion in the Riparian Buffer from Stormwater runoff adjacent to the Water Resource.

~~(D)~~(E) Landscaping to allow for Climax Successional Vegetation through the removal of Invasive Exotic Plants and the establishment of Native Vegetation, and/or other practices that restore the Ecological Integrity of the Riparian Buffer. ~~Landscaping or other related revegetation using Native Vegetation to address Erosion, damaged vegetation, restoration, remove exotic species, or other problems identified by the City Engineer. Landscaping, bank Stabilization, or other restoration p~~ Landscape plans and Proposals to restore ~~a natural stream corridor habitat~~ the Ecological Integrity of the Riparian Buffer shall be submitted as a Buffer Management Plan to the City Engineer, and any pertinent local, state, or federal permits shall be obtained. The City Engineer shall approve the specific requirements of such plan prior to the issuance of a Stormwater Management Permit or Grading Permit.

~~(E)~~(F) Removal of individual trees within the ~~forest buffer~~Riparian Buffer which are in danger of falling, causing damage to dwellings or other Structures, or causing blockage of the ~~stream~~Water Resource.

(ii) ~~Streamside~~ Riparian Zone 1 – Special Conditions. ~~Streamside~~ Riparian Zone 1 widths shall vary depending on ~~contiguous Waters of the~~ the ~~State~~Tributary Area of the Water Resource~~:~~, location of water pollution hazards, or steep Slopes. The following ~~streamside~~ Riparian Zone 1 widths shall apply:

Comment [DP3]: I can't tell what punctuation is intended here – should be a comma.

(A) For certain land uses and/or activities designated as potential water pollution hazards:

1. Drain fields from onsite sewage disposal and treatment systems (i.e., septic systems) require one hundred (100) feet.
2. Land application of biosolids requires one hundred (100) feet.

3. Subsurface discharge from a wastewater treatment plant requires one hundred (100) feet.
4. Above ground or underground petroleum storage or storage of hazardous substance facilities requires one hundred fifty (150) feet.
5. Raised septic systems require two hundred fifty (250) feet.
6. Solid waste landfills or junkyards require three hundred (300) feet.

(B) For areas containing steep Slopes:

1. Where the average Slope of the land within the ~~Streamside Buffer~~Riparian Zone 1 is between fifteen percent (15%) and twenty-five percent (25%), an additional twenty (20) feet shall be added to the minimum ~~buffer~~ Riparian Buffer width.
2. Where the average Slope of the land within the ~~Streamside Buffer~~Riparian Zone 1 is greater than twenty-five percent (25%), an additional fifty (50) feet shall be added to the minimum ~~buffer~~ Riparian Buffer width.

~~(C) When Wetlands, sinkholes or other Water Resources are wholly or partially within a stream or the Streamside Buffer edge, the Streamside Buffer width shall be extended by the width of the water resource.~~

Formatted: Indent: Left: 2.25", No bullets or numbering

(C) ~~Waters of the State~~Water Resources ~~serving more than one (1) square mile of tributary area, the minimum width of the Streamside~~ Riparian ~~Riparian~~ Zone (Zone 1) shall be sixty (60) linear feet perpendicular for Water Resources with drainage areas greater than one (1) square mile.

~~(D) Channels that drain twenty-five (25) acres or more that are not streams, seeps, springs, wetlands, or sinkholes and are considered by the City Engineer to be Water Resources shall only be required to apply a thirty (30) foot Zone 1 buffer from top of bank.~~

(b) Riparian Zone 2. ~~Stormwater Infiltration Zone (SIZ).~~ The function of Riparian Zone 2 is to protect key components of the ~~stream~~ Water Resource and to provide distance between upland Development and the ~~Streamside~~ Riparian Zone 1. The ~~Stormwater Infiltration Zone (Zone 2)~~Riparian Zone 2 shall begin at the edge of the ~~Streamside~~ Riparian Zone 1 (which includes any additional width as specified above in "Riparian Zone 1 – Special Conditions") and extend a minimum of thirty (30) feet~~, plus any additional buffer width as specified above in "Streamside Zone 1 – Special Conditions"~~. Riparian Zone 2 shall be managed as a forest using Native Vegetation, with some pruning and clearing allowed. Landowners shall ~~submit a~~have a Buffer Management Plan approved by ~~to~~ the City Engineer for this purpose. ~~This~~ The Buffer Management Plan shall be submitted along with the Stormwater Management Plan during either

Formatted

the Development review and/or permitting process. ~~This buffer shall be applied to Waters of the State serving less than one (1) square mile of tributary area. Wetlands, sinkholes, and Waters of the State serving more than one (1) square mile of tributary area may be exempt from Zone 2.~~

(i) Exemptions from Riparian Zone 2.

Formatted: Indent: Left: 1.38"

(A) Water Resources serving more than one (1) square mile of tributary area and Channels that drain twenty-five (25) acres or more that are not ~~s~~Streams but considered by the City Engineer to be Water Resources.

~~. The following Water Resources are exempt from Riparian Zone 2: Water Resources serving more than one (1) squire mile of tributary area, wetlands, sinkholes, lakes or Channels with a drainage area of 25 acres or more as determined by the City Engineer. Water Resources serving more than one (1) square mile of tributary area; and~~

~~(E)~~(B) ~~Sinkholes.~~

~~(iii)~~(ii) Allowable uses ~~within~~ within Riparian Zone 2.

(A) Those uses allowed in Riparian Zone 1. ~~Streamside Zone~~.

(B) Biking or hiking paths and Greenways. ~~Formal trail systems shall be allowed with closer viewing areas~~ View Corridors shall be allowed along Greenways as approved by the City Engineer. ~~These~~ Paths and Greenways shall be designed to prevent the channelization of Stormwater runoff, and should be constructed of pervious and/or permeable materials. There shall be no other permanent Structures with the exception of paths.

(C) Limited Passive Recreation.

~~(D) There shall be no other permanent Structures with the exception of paths.~~

~~(E) Approved utilities.~~

~~(F)~~ Changes to existing ~~vegetated~~ Stormwater Channels. ~~and use of dissipating BMPs (adjacent to and in the buffer) addressing Stormwater runoff and sheet flow, where appropriate, to prevent channelization, Erosion and Flooding. Details of these must be designated on construction plans, and should be located out of the Floodway.~~

~~(G)~~(D) Cut and Fill for Floodplain compensations, as permitted in Section 23-106(2~~)~~() (y) of this Title and as approved by the City Engineer.

(3) Stream relocations shall only be permitted in rare circumstances where the need to address a highly unstable hydrological condition can be clearly demonstrated by the following:

(a) The applicant may apply for a variance pursuant to Chapter 3 of this Title.

(b) The relocation shall create a high quality aquatic habitat, restore natural flow regimes and natural streamside conditions, and shall result in overall water quality improvements.

(c) The applicant shall submit a Buffer Management Plan and Long Term Maintenance Plan as prescribed in the Stormwater Management Permit requirements. A copy of any applicable federal or state permits shall be supplied to the City Engineer prior to the commencement of relocation.

(4) ~~Streamside~~ Riparian Buffer Width Reductions, Clearing Activities, and Crossings.

(a) The ~~minimum~~ Riparian ~~b~~Buffer width may be reduced in conjunction with targeted restoration plans that make comparable improvements to both the Ecological Integrity within the Riparian Buffer and water quality of the Water Resource. Restoration plans may include stream bank restoration, revegetation, habitat improvements, or other bioengineering methods, as approved in a Buffer Management Plan by the City Engineer. Reduction of the ~~minimum~~ Riparian ~~b~~Buffer width may apply to specific areas of an overall Development, and shall be approved on a case-by-case basis. In no case shall the minimum ~~Streamside~~ Riparian Buffer width be less than thirty (30) feet on both sides of the ~~stream~~ Water Resource measured from Top of Bank in limited areas. In no case shall the average minimum ~~Streamside~~ Riparian Buffer width of ~~Waters of the State~~a Water Resource serving more than one (1) square mile of Tributary Area ~~tributary area~~ be less than sixty (60) feet on both sides of the ~~stream~~ Water Resource measured from Top of Bank in limited areas.

(b) Riparian Buffer ~~Crossings: Buffer crossings shall~~Crossings shall be approved by the City Engineer. Attempts should be made to limit the number and width of road and utility crossings across Water ~~Bodies~~ Resources~~and to minimize the width of crossings~~. Utilities shall be located under pavement where possible. Riparian Buffer crossings shall be approved in a Buffer Management Plan by the City Engineer.

(i) Crossing Water ~~Bodies~~ Resources with mainline sanitary sewers shall be minimized, and shall cross with road crossings where possible.

(ii) Underground utilities such as sanitary sewer and water mains and above ground utilities shall be sited out of the Riparian Zone 1 buffer except for crossings.

(iii) The City Engineer may approve new driveways or road crossings through or across ~~Streamside~~ Riparian Buffer zones on a case-by-case basis. It shall be demonstrated that access across the ~~buffer~~ Riparian Buffer is necessary, and that the ~~water quality~~Riparian Buffer ~~buffer zone~~ will not be impacted excessively. In these cases, the driveway or road crossing shall be constructed perpendicular, ± fifteen degrees (15°), to the ~~stream~~ Water Resource and/ or Riparian Buffer ~~buffer~~ with careful detail to protecting trees and vegetation and minimizing Site grades. Note that such ~~stream~~ crossings may require federal, state, and/or local permits.

(5) Development Plan and Construction Activity Requirements

(a) The parameters of the ~~Streamside~~ Riparian Buffer shall be delineated by the applicant prior to the pre-application phase of a Development submittal.

(b) ~~Streamside~~ Riparian Buffer boundaries shall be clearly indicated on all plats and plans including concept plans, regulating plans, Site plans, conservation

subdivisions, preliminary plats, final plats, as well as permits and official maps, and shall:

(i) Show the extent of any ~~Streamside~~ Riparian Buffer on the subject property and clearly label as "~~Streamside~~ Riparian Buffer" along with the required width.

(ii) Provide a note to reference the ~~Streamside~~ Riparian Buffer, labeled as: "There shall be no clearing, Grading, construction, storage, or disturbance of vegetation except as permitted by the City Engineer."

(iii) Provide a note to reference protective covenants governing all ~~Streamside~~ Riparian Buffer areas, labeled as: "Any ~~Streamside~~ Riparian Buffer is subject to protective covenants recorded in the Register of Deeds (Williamson County)." Disturbance and use of these areas is restricted; severe penalties apply."

(c) ~~Streamside~~ Riparian Buffer areas shall be protected during all Development activities. Construction layout survey shall include fencing and labeling of the ~~Streamside~~ Riparian Buffer areas. Use of a combination of fencing and flagging to ensure adequate visibility shall be required. Riparian Buffer boundaries shall be marked with signs that persist before, during, and after construction to prevent entry of construction equipment, storage and stockpiling.

(d) Permanent boundary markers, in the form of signage approved by the City Engineer, shall be installed prior to the completion of the Development activities. Signage shall be posted at the edge of the ~~buffer~~ Riparian Buffer~~zone~~, each lot line, and at a maximum spacing of one hundred fifty feet (150'). Properties with a large amount of ~~stream~~ Riparian Buffer frontage may request a reduction in spacing requirements, subject to approval from the City Engineer. The size of the sign shall be six inches (6") by four inches (4") rectangle or greater and shall contain the message, "~~Stream~~ Water Resource protected. Violators subject to severe penalties" or other language approved by the City Engineer.

(e) All ~~Streamside~~ Riparian Buffers shall be placed in open space ~~lots to~~lotto be maintained according to Section 23-108 of this Title.

(6) Enforcement Procedures.

(a) Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 23-112 of this Title.

(b) Riparian Buffers shall be actively managed with periodic buffer surveys. Violators shall be served with civil penalties according to subsection~~Section~~ 23-112(4)(d) of this Title and shall be required, at their own expense, to revegetate, according to an approved Buffer Management Plan, and maintain the section of the ~~buffer~~ Riparian Buffer encroached upon, using only plants from a list of Native Vegetation provided by the City Engineer. Equivalent native plants and trees that were removed shall be replaced on a tree per tree basis or as approved by the City Engineer. Specimen trees shall be replaced as required by the Zoning Ordinance of the City.

(7) Variance and Appeal Procedures. Variance and Appeal requests shall be submitted pursuant to Section 23-301, et seq. of this Title.

23-108. Maintenance requirements. (1) The maintenance responsibilities for permanent Stormwater runoff control facilities shall be determined based upon the type of ownership of the property which is controlled by the facilities.

(2) Single entity ownership. Where the permanent Stormwater runoff control facilities are designed to manage runoff from property in a single entity ownership as defined below, the maintenance responsibility for the Stormwater control facilities shall be with the single entity owner.

(a) The stated responsibilities of the entity in terms of owning and maintaining the facilities shall be submitted with the Stormwater Management Plan for determination of their adequacy. Approval of the Stormwater Management Plan shall be conditioned upon the approval of these terms. These terms shall be in writing in the form of a Maintenance Agreement, shall be recorded at the register of deeds office, and shall, in addition to any other terms deemed necessary by the City, contain a provision permitting inspection at any reasonable time by the City Engineer of all such facilities deemed critical in the public welfare.

(b) A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate exclusive of an individual lot owner.

(c) Upon approval of the Stormwater management facilities by the City, the facility owner(s) shall demonstrate the ability to garner and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by the City. The City will only approve funding mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.

(d) Unless made specifically clear in the preliminary stages of the Site design and construction plan review procedure, it will be assumed that all Stormwater Detention, Retention, treatment or storage facilities and/or devices, and ~~Streamside~~ Riparian Buffers shall be owned, operated and maintained by a single entity as defined above.

(3) Municipal ownership. Where the City has accepted an offer of dedication of the permanent Stormwater management facilities, the City shall be responsible for maintenance.

(4) Construction Performance Agreement. The City may require the posting of a performance agreement to secure the structural integrity of said facilities as well as the functioning of said facilities in accordance with the City of Franklin Zoning Ordinance.

23-109. Other Requirements. (1) If deemed appropriate by the City Engineer during the plan review process, each new Development shall evaluate ~~stream and stream bank~~Water Resource and Riparian Zone conditions and~~, may~~ shall be required to address the following to ensure the preservation and propagation of the ~~buffer~~ Riparian Buffer area:

(a) ~~Stream bank~~ Stabilization and/or restoration
(b) Additional water quality protection
(c) Channel Erosion
(d) Stream pollution

(e) Habitat degradation
(f) The enhancement of the ~~successive process~~Climax Successional Vegetation such as active reforestation and removal of ~~invasive exotic plants~~Invasive Exotic Plants, trash and debris.

23-110. Allowable and Illicit Stormwater Discharges. (1) No person shall discharge or cause to be discharged into the MS4 or Water Resources any materials, including but not limited to, Pollutants or waters containing any Pollutants that cause or contribute to violation of applicable water quality standards, other than Stormwater and except as permitted by ~~Section~~ subsection 23-110(4) of this Title.

(2) Contamination of Stormwater runoff from Hot Spots shall be prohibited and subject to the maximum penalties as specified in ~~§~~subsection 23-112(4)(d)(iv) of this Title.

(3) Except as hereinafter provided, all non-Stormwater discharges into the MS4 shall be prohibited and declared to be unlawful.

(4) Unless the City Engineer has identified them as a source of Pollutants to the Waters of the State, the following non-Stormwater discharges into the MS4 shall be lawful:

(a) Discharges from emergency ~~fire-fighting~~firefighting activities.
(b) Diverted screen flows.
(c) Rising ground waters.
(d) Uncontaminated groundwater infiltration to separate storm sewer systems (as defined by 40 CFR35.2005 (20) as may be amended.
(e) Uncontaminated pumped ground water.
(f) Discharges from potable water sources as required for system maintenance.
(g) Drinking water line flushing.
(h) Foundation drains and pumps.
(i) Air conditioning condensate.
(j) Landscape irrigation.
(k) Irrigation water.
(l) Lawn watering.
(m) Uncontaminated springs.
(n) Water from crawl space pumps.
(o) Uncontaminated footing drains and pumps.
(p) Individual residential car washing.
(q) Flows from riparian habitats and w~~W~~etlands.
(r) Dechlorinated swimming pool discharges.
(s) Street wash waters resulting from normal street cleaning operations.
(t) Controlled flushing of Stormwater conveyances (controlled by appropriate Best Management Practices).
(u) Discharges within the constraints of a NPDES permit from the TDEC.
(v) Discharges approved at the discretion of the City Engineer.

Comment [DP4]: Capitalization is correct.

Comment [DP5]: TDEC needs to be defined.

(5) The construction, use, maintenance or continued existence of Illicit Connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Title if the person connects a line conveying sewage to the MS4, or allows such connection to continue.

(6) The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

(7) Every person, or such person's lessee or other designee, owning or maintaining property, through which a Water Resource passes, shall keep that part of the Water Resource within the property free of trash, debris, and other obstacles that would Pollute, contaminate, or significantly retard the flow of water through the Water Resource.

(8) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illicit Discharges or Pollutants discharging into the MS4 or Waters of the State said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the City no later than the next business day.

23-111. Rule-Making Authority. (1) The City Engineer shall have authority to implement this Title by appropriate regulations, guidance or other related materials. In this regard, technical, administrative, or procedural matters may be modified as needed to meet the objectives and policies defined above, so long as such modifications as to technical, administrative, or procedural matters are not contrary or beyond the intent of the objectives and policies defined above.

(2) Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with the Stormwater Management Ordinance (this Title), and shall not prevent the City Engineer from imposing the most current and effective practices.

(3) Regulations, guidance or other related materials that may be given authority by this Title may include, but are not limited to BMP manuals, design regulations and requirements, submittal checklists, review checklists, inspection checklists, certifications, Stormwater management manuals and operation and maintenance manuals. The document(s) may include information deemed appropriate by the City Engineer including guidance and specifications for the preparation of Stormwater Management Plans, selecting environmentally sound practices for managing Stormwater, minimum specifications and requirements, more complete definitions and performance standards.

(4) The above referenced documents shall not in any way require specific commercially available products. However, they may refer to performance specifications, class of devices, construction, or management practice.

23-112. Enforcement. The City shall have the authority to institute appropriate actions or proceedings at law or equity for the enforcement of this Title. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Any person unlawfully polluting the Waters of

the State or violating or failing, neglecting, or refusing to comply with any provisions of this Title as it relates to Tenn. Code Ann. §69-3-101, et. seq. (as it may be amended) commits a Class C misdemeanor. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties shall be available to the City in response to violations of this Title. If the person, property or facility has or is required to have a Stormwater discharge permit from the TDEC, the City shall alert the appropriate state authorities of the violation.

(1) Notice of Violation (NOV). Whenever designated City staff find that any person, company or facility owning or occupying a premises has violated or is violating this Title or order issued hereunder, the City Engineer may serve, by personal service, or by registered or certified mail, upon said person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the City Engineer. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.

(2) Revocation of permit. The City Engineer may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

(3) Compliance order. If any person, company or facility shall violate the provisions of this Title, the City Engineer may give notice to the owner or to any person in possession of the subject property, ordering that all unlawful conditions existing thereupon be abated within a schedule defined from the date of such notice.

(a) The City Engineer shall have the authority to establish elements of a Stormwater pollution prevention plan, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this Title. The City Engineer may establish the requirements of Best Management Practices for any premises.

(b) The notice and order may be given provided, that if, in the opinion of the City Engineer the unlawful condition is such that it is of imminent danger or peril to the public, then an authorized City representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The City, as described further in this subsection, may recover the cost of such actions from the property owner.

(4) Civil penalties. Any person, company or facility who has been found to have been in violation of any provision of this Title, may be assessed a civil penalty not to exceed the amount presented in this subsection.

(a) The penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company or facility. The penalty shall be additional to other enforcement actions of this Section.

(b) The penalty may be assessed by the City Engineer for each day beyond schedules applied in compliance orders or other schedules issued to the property owner or other person responsible for unauthorized activity defined in this Title.

(c) In determining the amount of the penalty the City Engineer shall consider the following:

(i) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;

(ii) The duration and gravity of the violation;

(iii) The effect on ground or surface water quality;

(iv) The cost of rectifying the damage;

(v) The amount of money saved by noncompliance;

(vi) Whether the violation was committed willfully or intentionally;

(vii) The cumulative effect of other enforcement actions applied for the same offense;

(viii) The prior record of the violator in complying or failing to comply with the Stormwater quality management program; and

(ix) The costs of enforcement to the City.

(d) The maximum civil penalties shall be determined by the City Engineer based on the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

(i) Development without permit -$10,000.00. To engage in any Development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Title without all required permits, certificates, or other forms of authorization as set forth in this Title.

(ii) Development inconsistent with permit -$5,000.00. To engage in any Development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

(iii) Violation by act or omission -$5,000.00. To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the City or its agent departments upon any required permit, certificate, or other form of authorization of the use, Development, or other activity upon land or improvements thereon.

(iv) Illicit Discharge -$5,000.00. Any person, company or facility who is found to have improperly disposed of any substance that is not defined in Section 23-110 of this Title or causes the City to be in noncompliance with any applicable environmental permit.

(v) Household products -$500.00. Any person, company, or facility who is found to have improperly disposed of any substance not included in Section 23-110 of this Title that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which, upon discharge to the MS4 or drainage network, would have an adverse impact on water quality or cause the City to be in noncompliance with any applicable environmental permit.

(e) In the event there are penalties assessed by TDEC against the City caused by any person, company, or facility, said person, company or facility shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to, penalties for improper disposal or illegal dumping, or illicit connection into the MS4.

(5) Order to clean and abate/restore. Any violator may be required to clean and/or restore land to its condition prior to the violation.

(6) Cost recovery. If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time if no time is specified, the City may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and the Developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the City shall have the authority to place a lien upon and against the property. If the lien is not satisfied within ninety (90) days, the City is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a monetary judgment, by delivery to the assessor or a special assessment against the property.

(7) Injunctions and or proceedings at law or in equity. Any violation of this Title or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(8) Fee or utility credit revocation. This enforcement tool is intended to be available or used if there are, at any time, provisions for a funding mechanism managed by the City. This enforcement tool permits that credits or other measures to reduce fees or utility charges may be revoked, in full or in part, if any ~~provision of this Title, or given authority per Section 23-111 of this Title, are~~provision of this Title, or given authority per Section 23-111 of this Title, is violated.

(9) Civil actions. In addition to any other remedies provided in this Title, any violation of this Title may be enforced by civil action brought by the City Attorney. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with implementing or enforcing the provisions of this Title. In any such action, the City may seek, as appropriate, any or all of the following remedies:

(a) A temporary and/or permanent injunction;

(b) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which leads to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

(c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

(d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

(10) Emergency orders and abatements. The City Engineer may order the abatement of any discharge from any source to the Stormwater conveyance System when, in the opinion of the City Engineer the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the

environment or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this subsection.

(11) Appeals. Upon issuance of a citation or Notice of Violation of this Stormwater Management Ordinance (this Title), it shall be conclusive and final unless the accused violator submits a written notice of Appeal to the City Engineer within ten (10) days of the violation notice being served. If the City Engineer does not issue a decision within ten (10) days of the written notice of Appeal then the violation is considered upheld. If the City Engineer does not reverse the decision or if the violation is considered upheld, the aggrieved party may Appeal to the Stormwater Appeals Board, by filing a written request for hearing within thirty (30) days of the City Engineer's decision on the Appeal. The request for hearing shall state the specific reasons why the decision of the City Engineer is alleged to be in error, and shall be accompanied by a payment in the amount of seven hundred fifty dollars ($750.00) to cover the cost of court reporters, transcripts, plan reviews and other administrative costs associated with the Appeal. In the event the Stormwater Appeals Board overturns the decision of the City Engineer, this payment may be refunded to the appellant.

23-113. Severability. (1) Should any article, section, subsection, clause or provision of this comprehensive Stormwater Management Ordinance (this Title) be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Title as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

(2) If any provisions of this Title and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

CHAPTER 2

STORMWATER USER FEE

SECTION

23-201. Definitions. For the purpose of this Chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Bonds" means Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.

(2) "Calendar year" means a twelve month period commencing on the first day of January of any year.

(3) "City Engineer." Refers to the City of Franklin City Engineer who has the authority to delegate to designated staff, which includes, but is not limited to, the Director of Engineering, Staff Engineers, the Stormwater Management Coordinator, Water Quality Specialists and the Stormwater Inspectors.

(4) "Costs of Construction" means costs reasonably incurred in connection with providing capital improvements to the System or any portion thereof, including, but not limited to, the costs of:

(a) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements thereof,

(b) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith,

(c) architectural, engineering, legal and other professional services,

(d) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation,

(e) any taxes or other charges which become due during construction,

(f) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction,

(g) principal of and interest of any Bonds, and

(h) miscellaneous expenses incidental thereto.

(5) "Debt Service" means, with respect to any particular Calendar Year and any particular series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Calendar Year, plus (ii) any principal installments of such Bonds during such Calendar Year.

(6) "Developed Property" means real property other than Undisturbed Property and Vacant Improved Property.

(7) "Dwelling Unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(8) "Equivalent Residential Unit" or ERU means the average Impervious Area of Residential Developed Property per Dwelling Unit located within the City and as established by the Board.

(9) "ERU Rate" means a Utility Fee charged on each ERU as established by the Board.

(10) "Exempt Property" means public rights of way, public streets, public alleys and public sidewalks.

(11) "Extension and Replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.

(12) "Impervious Area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into Soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement and athletic courts.

(13) "Nonresidential Developed Property" means Developed Property that is not utilized for Dwelling Units within the City.

(14) "Operating Budget" means the annual operating budget adopted by the City for the succeeding Fiscal Year.

(15) "Operations and Maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(16) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the Storm Water User Fee Fund, in connection with the management and operation of the System, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

(17) "Stormwater Management System" or "System" means the existing Stormwater management of the City and all improvements thereto which by this Chapter are constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce Flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such System.

(18) "Stormwater User Fee" means a fee authorized by Ordinance(s) established to pay Operations and Maintenance, Extension and Replacement and Debt Service.

(19) "Stormwater User Fee Fund" means the enterprise fund created by this Chapter to operate, maintain and improve the System and for such other purposes as stated in this Chapter.

(20) "Undisturbed Property" means real property which has not been altered from its natural state by dredging, Filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or Soils on the property.

(21) "User Fee District" means the area or property within the Corporate Limits of the City of Franklin.

(22) "Vacant Improved Property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress.

23-202. Fee Established. Subject to the provisions of this Chapter, each and every Residential Developed Property, Nonresidential Developed Property and Vacant Improved Property, other than Exempt Property, within the corporate limits of the City, and the owners and non-owner users thereof, have imposed upon them a Stormwater User Fee. In the event the owner and non-owner users of a particular Property are not the same, the liability for each the owner and non-owner user for the Stormwater User Fee attributable to that Property shall be joint and several. The Stormwater User Fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this Chapter and the ERU and ERU Rate which shall be established and changed from time to time by the Board of Mayor and Aldermen.

23-203. Stormwater User Fee Collection. The Stormwater User Fee for metered property shall be billed and collected monthly with the monthly City's utility services bill for those properties within the corporate limits of the City utilizing the City utilities and billed and collected separately as Stormwater User Fees for those properties not utilizing other City utilities. All such bills for Stormwater User Fees shall be rendered monthly by the Utilities Department. The Stormwater User Fee for those properties utilizing City utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment. In the

event that a partial payment is received, the payment shall be applied pro-rata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts. The Stormwater User Fee for unmetered property shall be billed at regular intervals. All bills for Stormwater User Fees shall become due and payable in accordance with the rules and regulations of the Utilities Department pertaining to the collection of the Stormwater User Fees.

23-204: <u>Stormwater User Fee Determination</u>. There is hereby established the following uniform schedule of rates for the services and use of facilities of the Stormwater Management System by the owner, tenant, or occupant of the premises using the services and facilities of said System:

(a) The Board of Mayor and Aldermen, upon recommendation of the City Engineer, shall, by Resolution, establish reasonable rates for the use of the System for each single-family residence: each single-family residence shall be billed at a flat fee established by the Board of Mayor and Aldermen for an Equivalent Residential Unit (ERU).

(b) Parcels which are undeveloped shall be assessed a Stormwater User Fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an Equivalent Residential Unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single-family residence, under typical hydrologic conditions.

(c) For all nonresidential properties, that is enterprise, business establishment, Building, or other occupancy not covered by subsections (a) and (b) of this Section, the ERU Rate shall be computed based on <u>the total Impervious Area of the property divided by the average Impervious Area of an ERU times the rate established for an ERU</u>. The billing amount shall be updated by the City Engineer based on any additions to the Impervious Areas as approved through the Building permit process.

(d) Users whose Stormwater runoff is not discharged into or through the Stormwater and/or Flood control facilities of the City shall be exempt from paying the Stormwater User Fee.

(e) Users who construct, or have constructed, facilities to retain and control the quantity and/or quality of Stormwater runoff from their property may be entitled to a reduction or adjustment of the Stormwater User Fee due, based upon reasonable criteria developed by the City Engineer.

(f) Any person who disagrees with the calculation of the Stormwater User Fee's determination by the City Engineer or who seeks adjustments or exemption of his Stormwater User Fee, may Appeal such determination to the City Engineer. An Appeal shall be accompanied by a fee as specified in Title 22 – Comprehensive Fees and Penalties, Chapter 23 – Stormwater Management Ordinance, filed in writing and include a written statement of the grounds for the Appeal, with reference to the Franklin Stormwater Management Credit and Appeal Manual or other appropriate documents available from the Engineering Department. The City Engineer will review the Appeal and render a decision within thirty (30) days. The City Engineer's decision shall be in writing and mailed, certified return receipt requested, or hand-delivered to the address of the applicant contained in the Appeal. In response to an

Appeal, the City Engineer may adjust the Stormwater User Fee applicable to a property in conformance with the general purpose and intent of this Title.

23-205. Equivalent Residential Unit (ERU) established. The Equivalent Residential Unit is hereby established to be three thousand three hundred fifty (3,350 SF) square feet of Impervious Area.

23-206. Equivalent Residential Unit (ERU) Rate and tiers established. (1) Intent. The Board of Mayor and Aldermen intends to establish a base ERU Rate and tiers of residential properties so that application of the ERU Rate and tiers as established leads to a fair and equitable result and such that the collection of fees shall be proportional to the amount of actual use of the Stormwater Management System. The fee structure reflects different categories of use and tiers using commonly accepted statistical principles to achieve such equitable results.

(2) ERU Rate established. The ERU Rate to be charged for the Stormwater User Fee for each ERU is as specified in Title 22 – Comprehensive Fees and Penalties, Chapter 23 – Stormwater Management Ordinance.

(a) Two tier residential ERU established. Residential properties will be separated into two tiers: residential units smaller than or equal to three thousand three hundred fifty (3,350 SF) square feet will pay seventy-five percent (75%) of the ERU Rate per month and residential units larger than three thousand three hundred fifty (3,350 SF) square feet will pay one hundred twenty percent (120%) of the ERU Rate per month.

(b). Non-residential properties established. Non-residential properties will pay monthly the ERU Rate times the actual square footage of Impervious Area divided by the ERU.

23-207. Undisturbed Property correction factor established. The Undisturbed Property correction factor to be used to calculate the Stormwater User Fee for each acre of Undisturbed Property is hereby established to be zero percent (0%).

CHAPTER 3

STORMWATER APPEALS BOARD

SECTION

23-301. Established. There is hereby established a board of seven (7) members to be known as the "Stormwater Appeals Board" (SAB).

23-302. Composition; terms; filling vacancies. (1) The seven (7) members of this board shall be appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen. The Mayor shall appoint members with the following qualifications: one (1) environmental Engineer or environmental scientist, one (1) attorney, one (1) person employed or retired from an industrial or commercial establishment regulated by this article, and (1) person that is a member of an organized neighborhood organization or environmental group. At least one (1) member of the SAB shall be a current member of the Board of Mayor and Aldermen.

(2) The members shall meet all requirements established in Title 2 of the Franklin Municipal Code. All members shall serve until their successor is appointed. In the event of a vacancy, the Mayor shall appoint a member to fill the unexpired term subject to approval by the Board of Mayor and Aldermen. The SAB shall select its own chair and vice chair. All officers shall serve for terms of one (1) year.

23-303. General duties of the SAB. In addition to any other duty or responsibility otherwise conferred upon the SAB by this Title, the SAB shall have the duty and power as follows:

(1) To recommend from time to time to the Board of Mayor and Aldermen that it amend or modify the provisions of this Title;

(2) To hold hearings upon Appeals from orders or actions of the City Engineer as may be provided under any provision of this Title relating to Stormwater;

(3) To hold hearings relating to the suspension, revocation, or modification of a Stormwater discharge permit and issue appropriate orders relating thereto;

(4) To hold hearings relating to an Appeal from a user concerning the accuracy of any fees imposed upon a Stormwater Management System user;

(5) To hold such other hearings as may be required in the administration of this Title and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this Title;

(6) To request assistance from any officer, agent, or employee of the City or the Franklin Municipal Planning Commission and to obtain such information or other assistance as the SAB might need;

(7) The SAB acting through its chair shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the SAB; and

(8) The chair, vice chair or chair pro tem shall be authorized to administer oaths to those persons giving testimony before the SAB.

23-304. Variances.

(1) The SAB may grant a variance from the requirements in this Title, provided to do so would not result in the violation of any state or federal law or regulation and if exceptional circumstances applicable to the Site exist such that strict adherence to the provisions of this Title will result in unnecessary hardship and will not result in a condition contrary to the intent of the Title.

(2) The appellant shall submit a written request containing specific justifications, and any other information necessary to the City Engineer for the variance request. The City Engineer shall conduct a review of the request for a variance within twenty-five (25) working days after receipt and may either support the petition or may object to the petition. The City Engineer may require additional information or an independent third party study or design analysis. If the City Engineer objects to the variance, the reasons therefore shall be stated. Once the City Engineer's review is complete or the twenty-five (25) working days for review have expired, the petition shall be subject to SAB action at the next regularly scheduled meeting or at a special meeting called at the discretion of the chair.

(3) Variance requests shall be reviewed by the SAB and may be granted using the following criteria:

a) Those projects or activities where it can be demonstrated that strict compliance with the ordinance would result in practical difficulty. Each of the following criteria must be satisfied to show practical difficulty:

i. The problem is not self-created.

ii. The situation of the landowner is due to the unique conditions of the property. A unique condition is a condition that is peculiar to the subject property that relates to a physical aspect of the subject property.

iii. Compliance with the strict letter of the restrictions governing physical requirements such as lot area, setbacks, and lot coverage unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

b) Those projects or activities serving a public need where no feasible alternative is available.

c) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to ~~Wetlands and associated aquatic ecosystems~~Water Resources have been addressed.

d) Other considerations, such as:

i. The proximity of the facility to a waterfront location, in the case of a Functionally Dependent Facility.

ii. The relationship of the proposed use to the Franklin Zoning Ordinance, comprehensive Land Use Plan, and master drainage plans for that area.

iii. The safety of access to the property in times of Flood for ordinary and emergency vehicles.

iv. The costs of providing governmental services during and after Flood conditions including maintenance and repair of public utilities and facilities such a sewer, gas, electrical, and water systems, and streets and Bridges.

v. Whether issuance of a variance is the minimum necessary so as not to destroy the character and design of a historic Building or feature.

(c) In approving a variance, the SAB may impose conditions on the approval. The conditions shall be identified in the variance approval.

(d) The decisions of the SAB shall be final and conclusive.

(4) Effect of a Variance. The issuance of a variance shall authorize only the particular variation that is approved. A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(5) Subsequent Development. Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this Title or any other applicable local, state or federal law or regulation. A variance shall not ensure that the Development feature approved as a variance shall receive subsequent approval for other applications for Development approval unless the relevant and applicable portions of this Title's other applicable provisions are met.

(6) Time Limit. Unless otherwise specified in the variance, an application for a Stormwater Permit shall be applied for and approved within one (1) year of the date of the variance approval; otherwise the variance shall become invalid. Permitted time frames do not change with successive owners.

23-305. Meetings; quorum. (1) The SAB shall hold regular monthly meetings as needed, but no less than ~~once per quarter~~ twice per calendar year, and such special meetings as the SAB may find necessary.

(2) Four (4) members of the SAB shall constitute a quorum. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal.

(3) The SAB meetings, deliberations, and records shall be open to the public. The SAB may elect to provide for public comment on relevant issues.

23-306. Hearing procedure; judicial review. (1) When to be held. The SAB shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this Title or regulations.

(2) Record of hearing. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The SAB shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the SAB shall have the right to have such hearing recorded stenographically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the SAB by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the SAB with the original of the transcript so that it may be certified to court.

(3) Subpoenas. The chair may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be

made by lodging with the chair at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chair, the same shall be delivered to the chief of police for service by any police officer of the City, if the witness resides within the City. If the witness does not reside in the City, the chair shall issue a written request that the witness attend the hearing.

(4) Depositions. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chair to rule on such matters as would require a ruling by the court under such rules.

(5) Hearing procedure. The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by witnesses that the SAB may desire to call. Rebuttal witnesses shall be called in the same order. The chair shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the SAB. The SAB, the City Engineer, or his representative, and all parties shall have the right to examine the witness. The SAB shall not be bound by or limited to rules of evidence applicable to legal procedures.

(6) Appeal to City Engineer's order. Any person aggrieved by any order or determination of the City Engineer may Appeal said order or determination to the SAB and have such order or determination reviewed by the SAB under the provisions of this Title. The appellant shall have thirty (30) days to petition the SAB in order to Appeal the City Engineer's decision. A written notice of Appeal shall be filed with the City Engineer, and such notice shall set forthwith particularity the action or inaction of the City Engineer complained of and the relief sought by the person filing said Appeal. A payment of Seven Hundred Fifty and No/100 Dollars ($750.00) shall accompany this appeal, and the payment shall cover the cost of court reporters, transcripts, plan reviews and other administrative costs associated with the Appeal, and may be refunded to the appellant by the SAB in the event the decision of the City Engineer is overturned. A special meeting of the SAB may be called by the chair upon the filing of such Appeal, and the SAB may in its discretion suspend the operation of the order or determination of the City Engineer until such time as the SAB has acted upon the Appeal.

(7) Absence of chair. The vice-chair or the chair pro tem shall possess all the authority delegated to the chair by this Section when action in his/her absence or in his/her stead is required.

(8) Review of SAB's decision. Any person aggrieved by any final order of determination of the SAB hereunder shall have judicial review by common law writ of certiorari.

SECTION III. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST: **CITY OF FRANKLIN, TENNESSEE:**

BY:_____ **BY: _____**

ERIC S. STUCKEY **DR. KEN MOORE**

City Administrator/Recorder **Mayor**

PASSED FIRST READING:

PUBLIC HEARING:

PASSED SECOND READING: