ORDINANCE NO.: 15-02 (AMENDED)

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 10-16

WHEREAS, the City Council of the City of Franklin, Indiana has determined that it is in the best interest of the City to adopt the Ordinance, to provide for the method and manner of construction, repair, replacement of utilities and driveways within the streets or street ROW's of the City and provide for the method and manner of allocating the cost thereof;

WHEREAS, the Common Council finds that ordinance No. 10-16 requires certain amendments and revisions;

The City of Franklin Ordains:

SECTION 1. PURPOSE: The City of Franklin monitors all work conducted in the streets and street right-of-ways through the permitting process. This process allows the City to coordinate activities between City and other utilities, to maintain a record of street cuts and patches and to identify specific City requirements.

SECTION 2. PERMIT REQUIRED: Any work within the ROW, which disturbs the pavement, curb and/or gutter, driveway entrances, sidewalks, landscaping, or grassed areas, requires a permit. This work may include but is not limited to, installation of new driveways; utility main and/or lateral replacement and repair; valve and meter replacement or repair; installation of new underground mains or laterals, structures or accessories; splices, buried drops (under pavement or sidewalks); pole changes for height, accidents, etc.; cathodic protection; boxes and vault installations and jacking or boring under the ROW where disturbance within or crossing the ROW may occur. Any utility work that does not disturb or encroaches the ROW is exempt from the permitting requirements except to the extent that traffic detours or lane closures must be approved by the City Engineer and/or his designee.

Exceptions: The City of Franklin does not issue permits for private irrigation systems within the Public Rights-of-Way and is not responsible for damage caused to irrigation systems placed within the Public Rights-of-Way. This includes any work conducted by or for the City of Franklin.

SECTION 3. EMERGENCY STREETS CUTS: The City Engineer and/or his/her designee may, if the public safety requires immediate action, grant permission to make a necessary street cut or excavation before a permit is issued. The permit application fee for an emergency cut will be at the discretion of the City Engineer and/or his/her designee with the maximum application fee listed in the included fee schedule.

SECTION 4. OBTAINING PERMITS: Before work within the ROW is started, the necessary permit shall be obtained from the Department of Engineering. The fee for such permit shall be in accordance with the fee schedule. Any contractor or person beginning work before being issued the proper permit will be subject to a fine of two thousand five hundred dollars ($2,500).

SECTION 5. RESPONSIBILITY: The permittee and/or contractor receiving the permit is held responsible for the work performed and the City of Franklin will contact the permittee for required adjustments or corrections regardless of whether the permittee performed the work or subcontracted and assigned the work. The permittee is solely responsible for the work performed.

SECTION 6. INSPECTION: In all cases the permittee, for a street cut, shall notify the City within 24 hours of when the work will commence so, if necessary, arrangements can be made to have an inspector present while the work is in progress. All connections made to sewer mains require inspections prior to backfill.

SECTION 7. STREET CUTS AND NEW PAVEMENT:

Street Excavations. No permit shall be granted for making an excavation or opening within the limits of a street, which will result in permanent or prolonged interference with the public use of the street.

Open Cuts. No permit to make an opening or excavation in or under a paved street shall be granted to any person within 5 years after the completion of any paving or resurfacing thereof. Open cuts on graveled streets are permitted. Paved streets that have been resurfaced within 5 years will be subject to bore and jack of the street unless authorized by The Board of Public Works upon presentation by the Department of Planning and Engineering.

Saw Cuts. All pavement cuts shall be saw cut in a straight manner and shall be made at right angles or parallel with the centerline of the pavement.

Emergency Openings. Pavement less than 5 years old may be cut in emergency situations as determined by the City Engineer and/or his/her designee.

SECTION 8. GENERAL WORKSITE RESPONSIBILITIES: The permittee or its subcontractors shall have a copy of the permit on the job site at all times. The permittee shall be responsible for the condition of any ROW repairs. Pavement repairs shall be warranted for a period of one year following the acceptance of work. Should the condition of the patch become such that additional pavement is in jeopardy of failure, the permittee may be held responsible for an area larger than the original repair. Other repairs (sidewalks, curb and gutter, trenches, etc.) shall be warranted for a period of one year following the acceptance of work.

SECTION 9. STANDARDS:

Rigid Base Pavements: Concrete on earth, asphalt on concrete base, asphalt on brick base, brick on earth.

> **Minimum Opening:** All excavated opening shall be a minimum of four (4) feet as measured in any direction.

Saw Cut: All pavement cuts shall be saw cut in a straight and true manner, and shall be made at right angles or parallel to the pavement centerline. Cuts shall be made to the depth of the existing pavement section. Pavements less than 5 years old shall be cut only in emergencies and only with the approval by the Board of Public Works.

Sizing of Pavement Replacement: For asphalt pavement on concrete or brick base the existing pavement and shall be milled one and one half (1 ½) inches to a minimum length of five (5) feet in either direction (measured parallel to the road centerline) from the edge of the excavated opening or saw cut, with a width equaling that to the road centerline.

For utility cuts that cross the road centerline the existing asphalt pavement on concrete or brick base shall be milled one and one half (1 ½) inches to a minimum length of five (5) feet in either direction (measured parallel to the road centerline) from the edge of the excavated opening, with a width equaling that to the entire road.

For concrete on earth or brick on earth pavement the existing pavement shall be removed to a necessary size, not less than the minimum excavated opening of four (4) feet.

Where the line of cut would be less than five (5) feet from an existing expansion or weakened plane joint, concrete or asphalt shall be removed to said joint.

Backfill: For asphalt pavements on concrete or brick base all trenches, holes, and pits shall be filled to a depth eleven (11) inches from the top of the existing pavement section. Backfill material is limited to flowable fill mixture in accordance with INDOT standard specifications section 213.

For concrete on earth all trenches, holes, and pits shall be filled with a flowable fill mixture, in accordance with INDOT standard specifications section 213, to a depth of six (6) inches from the top of the existing pavement section.

For brick on earth pavements all trenches, holes, and pits shall be filled with flowable fill mixture, in accordance with INDOT standard specifications section 213, to a minimum depth of six (6) inches from the bottom of the existing pavement section. This six (6) inches is filled with sand to the bottom of the existing pavement section.

Pavement Replacement: For asphalt pavement on concrete or brick base the work of final restoration of the paving surface shall be performed by the permitee by placing ten (10) inches of HMA base and/or binder to fill the excavated opening, and one and one half (1 ½) inches of HMA surface to match existing grade. A tack coat shall be applied between pavement surfaces and new asphalt.

For concrete on earth pavement the work of final restoration of the paving surface shall be performed by the permitee by placing six (6) inches of 4000 PSI concrete to match existing grade. All concrete replacement, including base material, shall be high-early strength concrete and shall be returned to traffic as soon as its strength reaches 2,800 psi (three (3) days).

For brick on earth pavement the work of final restoration of the paving surface shall be performed by the permitee by placing brick pavers to match grade, style, and color of existing brick pavement.

Flexible Base Pavements: Asphalt with Stone Base.

Saw Cut: All pavement cuts shall be saw cut in a straight and true manner and shall be made at right angles or parallel with the pavement centerline. Cuts shall be made to the depth of the existing pavement section. Pavements less than five (5) years old shall be cut in emergencies only and/or with the approval by the Board of Public Works.

Backfill: All trenches, holes, and pits shall be filled to a depth eleven and one half (11 ½) inches from the top of the existing pavement section. Such material is limited too flowable fill mixture in accordance with INDOT standard specifications section 213.

Sizing of Pavement Replacement: The existing pavement and base shall be removed to provide a minimum length of the trench, plus one (1) foot on either side (measured parallel to the road centerline), with a width equaling that to the road centerline. An additional length of five (5) feet of surface pavement (on either side of the trench), with a width equaling that to the road centerline, shall be milled to a depth of one and one half (1 ½) inches.

For utilities that cross the road centerline the existing pavement and base shall be removed to provide a minimum length of the trench, plus one (1) foot on either side (measured parallel to the road centerline), with a width equaling that of the entire road. An additional length of five (5) feet of surface pavement (on either side of the trench), with a width equaling that to the entire road, shall be milled to a depth of one and one half (1 ½) inches.

Pavement Replacement: The existing pavement and base within the trench plus the one (1) foot of length, shall be replaced with six (6) inches of flowable fill mixture in accordance with INDOT standard specification section 213, four (4) inches (minimum) of HMA binder, and one and one half (1 ½) inches of HMA surface. The remaining milled section shall be replaced with one and one half (1 ½) inches of HMA Surface.

A tack coat shall be applied between the HMA binder, and the HMA surface as well as at the saw cut joints.

Where the line of cut would be less than five (5) feet from an existing patch, and/or existing joint the asphalt shall be removed to include said patch.

SECTION 10. REPLACING SIDEWALK, DRIVEWAY AND CURB: Whenever a part of a block, square or section of curb, sidewalk or driveway is broken or damaged by the person making any excavation or opening in or under any street, alley or public place, the entire block, square or section shall be removed to the score, groove or saw cut line and replaced or reconstructed to the original thickness.

SECTION 11. MARKINGS: Each Street cut shall be marked on its four (4) corners with a paint marking.

SECTION 12. TRENCHING OPERATION: At no time shall more than 200 lineal feet of trench be opened and incompletely backfilled. The remainder of the area of trenching operations shall be available for safe vehicular and pedestrian traffic at all times, special exceptions may be allowed by the City Engineer and/or his/her designee.

SECTION 13. ADDITIONAL RESTORING OPENING: If the City Engineer and/or his/her designee finds that the pavement surfaces and adjacent surfaces to the street opening may be damaged where trenches are made parallel to the street, or where a number of cross trenches are laid in close proximity to one another, or where the equipment used might cause such damage, the City Engineer and/or his/her designee may require milling and resurfacing throughout the limits of the patching in such street. Any operation in the right-of-way not covered by the above specifications, submitted with this permit, shall be done in accordance with instruction of the City Engineer and/or his/her designee.

In granting any permit, the City Engineer and/or his/her designee may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to: a) limitations on the period of one year in which the work may be performed; b) restrictions as to the size and type of equipment commensurate with the work to be done; c) designation of routes upon which materials may be transported; d) the place and manner of disposal of excavated materials; e) requirements as to the laying of dust, the cleaning of streets, the prevention of noise, and other results offensive or injurious to the neighborhood, the general public, or any portion thereof; and f) regulations as to the use of streets in the course of the work.

The Permittee shall notify the City Engineer and/or his/her designee in writing upon completion of all work accomplished under the provisions of the permit. The City Engineer and/or his/her designee shall issue a certificate of final inspection to each permittee one year after the permanent restoration of the excavation has been made,

provided that the work authorized by the permit has been performed according to the City specifications. Prior to the issuance of a certificate, the City Engineer and/or his/her designee shall make a full inspection of the restoration to determine whether the City specifications have been adhered to. If any settlement in a restored area occurs within one years from the date of completion of the permanent restoration, any expense incurred by the City to correct such settlement shall be performed by the permittee or recovered from the posted bond, unless the permittee submits proof satisfactory to the City Engineer and /or his/her designee that the settlement was not due to defective backfilling.

In no case shall any opening made by a permittee be considered in the charge of the City, or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of police power, when it is necessary to protect life and property.

SECTION 14. TEMPORARY TRENCH COVERING: All cuts, trenches, holes, and pits shall be covered while work is not being performed. Acceptable temporary coverings include: a) a granular, or flowable fill, backfill material capped with bituminous patching mixture conforming to INDOT standard specification section 403; or b) Metal plating that substantially covers the trench and allows for normal travel of traffic. At no time should a trench be temporarily backfilled with only a granular material.

All trenches across traffic lanes, where it becomes necessary to remove an existing surfacing or pavement, the final surface shall take place before the construction year ends, no later than November 15th, and all cuts made in the off season, November 15th to April 15th, shall be completed before June 15th of the following construction season, unless prior arrangements have been made with the City Engineer and/or his/her designee. All off season cuts shall be provided with temporary trench cover, after proper compaction. Minimum requirements for temporary trench cover shall be bituminous patching mixture conforming to INDOT standard specifications section 403 as specified by the City Engineer and/or his/her designee. Temporary trench covers shall be properly maintained by the permittee until a permanent trench cover is placed.

SECTION 15. TIME LIMIT TO FINAL RESTORATION: The permitee shall ensure final restoration shall occur in a timely manner. Complete restoration shall be completed to the standards listed in this Ordinance within ten (10) days of completion of work that required a street cut, or as determined by the City Engineer and his/her designee. Unless work falls between November 15th and April 15th in which case the permitee should follow regulations outlined in Section 14 of this Ordinance.

SECTION 16. PERMIT FEES, BONDING, AND INSURANCE PER RIGHT-OF-WAY ACTIVITY: The fee, bonding, and insurance for a permit for work performed under this ordinance shall be paid in accordance with the adopted fee schedule.

At the discretion of the City Engineer and/or his/her designee; residential driveways do not require bonding if work is performed solely by the property owner. If the work is

performed by a private contractor, bonding is required in accordance with the adopted fee schedule.

SECTION 17. PENALTY: Any person, firm, or corporation violating any provision of this ordinance is responsible for a civil infraction, subject to a fine of two thousand five hundred dollars ($2,500).

SECTION 18. SAVINGS CLAUSE: That nothing in this ordinance hereby adopted be construed to affect any just or legal right or remedy of any character nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 19. CONSTRUCTION OF CLAUSE HEADINGS. The clause heading appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.

SECTION 20. REPEAL OF PRIOR ODINANCE. This Ordinance specifically repeals the prior Ordinance designated 10-16.

SECTION 21. REPEAL OF CONFLICTING ORDINANCES. The provisions of all other ordinances in conflict with the provisions of this ordinance are no further force or effect, and are now repealed;

SECTION 22. SEVERABILITY: The various parts, section and claim of this ordinance are to be declared to be several. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court or competent jurisdiction, the remainder if the ordinance shall not be affected.

SECTION 23. DURATION AND EFFECTIVE DATE: This Ordinance shall be in full force and effect (until their repeal by ordinance) thirty (30) days after the passage and adoption of this ordinance by signature of the executive in the manner prescribed by Indiana Code §36-4-6-15,16.

Right-of-Way Fee Schedule

Residential Rates

- Residential Drives with a width of 24 feet or less are $50.00. For residential driveways greater than 24 feet of width, "Commercial Rates" shall apply.

Commercial Rates

- Commercial Driveways (and residential driveways 24 feet or greater), $250.00
- Major Commercial Driveway[1] (with acceleration and deceleration lanes and/or tapers), $250.00
- Major commercial Driveways with passing blister or left turn lane[1], $250.00
- For borings or pushes under roadway/street, $250.00 flat fee, including necessary cuts parallel to the road/street
- For open road/street cuts, $250.00 flat rate
- For underground construction, grading, trenching, or excavation parallel to the road/street, $50.00 flat rate
- Emergency Right-of-Way Permit, $500.00 (maximum)[2]
- For setting line poles, $40.00 first pole, each additional pole an additional $5.00 per pole applies

1. All work requires design approval by the Technical Review Committee before any permit can be approved
2. At the discretion of the City Engineer and/or his/her designee

Bonding

- Residential Driveways Done by Property Owner – none required
- Residential Driveways Done by Private Contractor - $10,000
- Road/street Crossing – Open cut - $10,000 Permit Bond
- Road/street Crossing – Boring or Push - $10,000 Permit Bond
- Parallel Right-of-Way Work - $10,000 Permit Bond
- Line Pole Work - $10,000 Permit Bond
- Performance Bonding for companies who perform continuous or regular work in the city's right-of-ways[3] - $25,000 Permit Bond

3. A surety bond may be posted by companies who perform continuous and regular work in the city's right-of-ways. If it becomes necessary for the City of Franklin to exercise a surety bond, the applicant shall supply an additional surety bond.

Insurance Requirements

Residential permits will not require any proof of insurance. For any other permit the following insurance requirements will need to be provided.

- **Public Liability Bodily Injury Insurance** of not less than One Million Dollars ($1,000,000) for injuries, including accidental death, to any one person and subject to the same limit for each person, in an amount of not less than One Million Dollars ($1,000,000) on account of one accident

- **Public Liability Property Insurance** of not less than One Million Dollars ($1,000,000).
- **Automobile Public Liability Bodily Injury** of not less than One Million Dollars ($1,000,000) each person and not less than One Million Dollars ($1,000,000) each occurrence and Automobile Public Liability Property Damage of not less than One Million Dollars ($1,000,000).

Introduced and Filed on the 2nd day of March, 2015.

DULY PASSED on this 16th day of March, 2015, by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote of 6 in Favor and 0 Opposed.

City of Franklin, Indiana, By its Common Council:

Voting Affirmative:	Voting Opposed:
Stephen Barnett, Council President	Stephen Barnett, Council President
Kenneth W. Austin, Vice President	Kenneth W. Austin, Vice President
Joseph P. Abban	Joseph P. Abban
Absent Joseph R. Ault	Joseph R. Ault
Stephen D. Hougland	Stephen D. Hougland
Dr. William T. Murphy	Dr. William T. Murphy
Richard L. Wertz	Richard L. Wertz

Attest:

Janet P. Alexander
City Clerk-Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana Code § 36-4-6-15, 16, this 16 day of March, 2015 at 7:30 o'clock ~~a.m.~~/p.m.

Janet P. Alexander,
City Clerk-Treasurer

This ordinance having been passed by the legislative body and presented to me [Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1)] [Vetoed, pursuant to Indiana Code § 36-4-6-16(a)(2)], this 16 day of March, 2015 at 7 30 o'clock ~~a.m.~~/p.m.

Joseph E. McGuinness
Mayor

Attest:

Janet P. Alexander,
City Clerk-Treasurer

Prepared by: