

NEW LEGISLATION

May 29, 2012

Temp. No.	Introduced	Committee	Description
A-59	5/29/12	P&Z	An ordinance amending Section 1125.02 of Chapter 1125, Title 2, Part 11 of the Codified Ordinances of the City of Cuyahoga Falls (General Development Code), relating to stream corridor protection, and declaring an emergency.
A-60	5/29/12	P&Z	An ordinance approving a Preliminary and Final Plat application for a public utility right-of-way within and adjacent to Hemlock Hills Drive (undedicated) (Parcel No. 35-04240), and declaring an emergency.
A-61	5/29/12	Fin	An ordinance authorizing payment of the moral claim of Lawrence D. Cook and Kristina S. Cook as approved by the claims commission, and declaring an emergency.
A-62	5/29/12	Fin	An ordinance authorizing the Mayor and the Director of Community Development to enter into a modification of Contract No. 6779 with Portage Crossing LLC, and declaring an emergency.

CALENDAR

May 29, 2012

The following legislation will be up for passage at the Council Meeting on May 29, 2012.

Temp. No.	Introduced	Committee	Description
A-51	5/14/12	Fin	An ordinance authorizing the Director of Public Service to enter into a contract without competitive bidding with Genuine Parts Company for the purchase and installation of a security fence for the City Service Complex at 2560 Bailey Road, and declaring an emergency.
A-52	5/14/12	Fin	An ordinance providing for supplemental appropriations of money for current operating expenses and capital expenditures of the City of Cuyahoga Falls for the various funds hereinafter set forth, and declaring an emergency.
A-53	5/14/12	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the reconstruction of concrete pavement at various locations in the City, and declaring an emergency.
A-54	5/14/12	PI	An ordinance authorizing and directing the appropriation of certain interests in real property necessary for the improvement of State Road between Graham Road and Steels Corners Road, and declaring an emergency.
A-55	5/14/12	PI	A resolution authorizing the Director of Public Service to apply for and accept financial assistance in the form of a grant or loan from

the Ohio Public Works Commission for replacement of a 16" water main in Graham Road, and declaring an emergency.

A-56 5/14/12 PA

An ordinance authorizing the Mayor to enter into an intergovernmental agreement known as the Summit County Intergovernmental Memorandum of Understanding for Job Creation and Retention and Tax Revenue Sharing, as amended, and declaring an emergency.

A-57 5/14/12 PA

An ordinance authorizing the Director of Public Service to issue an encroachment permit to Barbara S. Dieterich dba Diamond Deli for the purpose of installing and maintaining outdoor seating and food service activities in the public right-of-way of Front Street, and declaring an emergency.

A-58 5/14/12 CD

An ordinance authorizing the Director of Community Development to enter into a Community Reinvestment Area tax exemption agreement jointly with Technicote, Inc. and CFO Realty, LLC, and declaring an emergency.

PENDING LEGISLATION

May 29, 2012

Temp. No.	Introduced	Committee	Description
A-51	5/14/12	Fin	An ordinance authorizing the Director of Public Service to enter into a contract without competitive bidding with Genuine Parts Company for the purchase and installation of a security fence for the City Service Complex at 2560 Bailey Road, and declaring an emergency.
A-52	5/14/12	Fin	An ordinance providing for supplemental appropriations of money for current operating expenses and capital expenditures of the City of Cuyahoga Falls for the various funds hereinafter set forth, and declaring an emergency.
A-53	5/14/12	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the reconstruction of concrete pavement at various locations in the City, and declaring an emergency.
A-54	5/14/12	PI	An ordinance authorizing and directing the appropriation of certain interests in real property necessary for the improvement of State Road between Graham Road and Steels Corners Road, and declaring an emergency.
A-55	5/14/12	PI	A resolution authorizing the Director of Public Service to apply for and accept financial assistance in the form of a grant or loan from the Ohio Public Works Commission for replacement of a 16" water main in Graham Road, and declaring an emergency.
A-56	5/14/12	PA	An ordinance authorizing the Mayor to enter into an intergovernmental agreement known as the Summit County Intergovernmental Memorandum of Understanding for Job Creation and

Retention and Tax Revenue Sharing, as amended, and declaring an emergency.

A-57 5/14/12 PA

An ordinance authorizing the Director of Public Service to issue an encroachment permit to Barbara S. Dieterich dba Diamond Deli for the purpose of installing and maintaining outdoor seating and food service activities in the public right-of-way of Front Street, and declaring an emergency.

A-58 5/14/12 CD

An ordinance authorizing the Director of Community Development to enter into a Community Reinvestment Area tax exemption agreement jointly with Technicote, Inc. and CFO Realty, LLC, and declaring an emergency.

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5 CITY OF CUYAHOGA FALLS, OHIO
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7 ORDINANCE NO. - 2012
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9 AN ORDINANCE AMENDING SECTION 1125.02 OF CHAPTER
10 1125, TITLE 2, PART 11 OF THE CODIFIED ORDINANCES OF
11 THE CITY OF CUYAHOGA FALLS (GENERAL DEVELOPMENT
12 CODE), RELATING TO STREAM CORRIDOR PROTECTION, AND
13 DECLARING AN EMERGENCY.
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15 WHEREAS, on May 15, 2012 the Cuyahoga Falls Planning Commission recommended
16 approval of regulatory text amendments to the Cuyahoga Falls General Development Code as
17 outlined in File P-10-12-RA, relating to stream corridor protection,
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19 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
20 of Summit, and State of Ohio, that:

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22 Section 1. Section 1125.02, Chapter 1125, Title 2, Part 11 of the Codified Ordinances of
23 the City of Cuyahoga Falls (General Development Code) is hereby amended to read as follows (new
24 text double underlined; deleted text in ~~strikethrough~~):

25 **1125.02 Stream Corridor Protection**

26 A Applicability. The standards in this section shall apply to all planning areas in the City
27 through the site plan and division of land procedures described in this code and through
28 the Planning Division's zoning certificate process.:

- 29 1. ~~All areas in the Northampton Planning Area; and~~
30 2. ~~The City Council with recommendation by the Planning Commission may designate~~
31 ~~other special stream protection overlay zones or measures in the Cuyahoga River~~
32 ~~(CRA), Bailey Munroe Falls Area (BMFA, and State Portage Trail Area (SPTA) through~~
33 ~~the site plan or division of land procedures described in this code.~~

34 B Intent. It is understood the standards in this section are intended to preserve natural
35 water corridors in order to perform various hydrological, biological, and aesthetic functions
36 that protect the health, safety, and welfare of adjacent property, downstream property, and
37 the community. The standards have the specific intent of:

- 38 1. Protecting adjacent and downstream property and persons from inundation from
39 flooding;
40 2. Protecting surface and groundwater supply from contamination by reducing or
41 eliminating pollution sources from the stream or by allowing natural filtration and
42 infiltration processes to occur;
43 3. Stabilizing stream banks and reducing channel erosion; maintaining stream
44 temperatures and habitat for wildlife in and along the stream corridor; and
45 4. Preserving aesthetic qualities and recreation or education opportunities presented by
46 natural stream corridors and enhance property values near stream corridors.
47 5. Preserve corridor ecosystems and ensure connected and functional stream corridors
48 by avoiding any gaps in stream corridor buffers, which will compromise the
49 effectiveness of the system.

50 C Standards.

- 51 1. Stream Types. The following stream types shall be used to define appropriate stream
52 buffers (See Table 1125-20).
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Table 1125-20: Stream Types

STREAM TYPES	
Type I	Drainage area of up to 32 acres
Type II	Drainage area of greater than 32 acres up to .5 square miles
Type III	Drainage area greater than .5 square miles up to 20 square

	miles
Type IV	Drainage area greater than 20 square miles up to 300 square miles
Type V	Drainage area greater than 300 square miles

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2. *Buffer Types and Allowed Activities.* The following buffer types shall be used to regulate activities in any stream corridor buffers. Any applicable buffer type boundaries shall be indicated on any plat or site plan filed which includes an applicable stream corridor (Table 1125-21).

Table 1125-21: Buffer Types

BUFFER TYPES	
BUFFER TYPE	BUFFER CHARACTERISTICS
Preserved Buffer	An area that protects the physical and ecological integrity of the stream ecosystem. It is the most sensitive area of the Stream Corridor and includes the stream channel and the required setback from the ordinary high water mark. In order to protect natural functions of the corridor, this area should contain undisturbed natural vegetation.
Managed Buffer	An area that protects key components of the stream and provides distance and transitions between upland development and the Preserved Buffer. Activities in this area impact the function of the Preserved Buffer, as well as the Stream Corridor, and it begins immediately adjacent to the Preserved Buffer. In order to protect natural functions of the corridor, this area should contain native vegetation and limited land disturbance.
Limited Development Buffer	An area that prevents encroachment into the stream corridor by more intense and conventional development. Activities in this area impact the function of the Stream Corridor, and it begins immediately adjacent to the Managed Buffer. Limited development activity is allowed in this area, provided it is accessory to a use in one of the other buffer areas or involves site design practices that eliminate, minimize or mitigate impacts of run-off into the stream corridor.

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3. *Required Buffer Area.* The required Buffer Area shall be according to the following table with required and allowed modifications based upon the following sections and Table 1125-22.

Table 1125-22: Required Buffer Areas

REQUIRED BUFFER AREAS				
BUFFER TYPE >	PRESERVED BUFFER	MANAGED BUFFER	LIMITED DEVELOPMENT BUFFER	TOTAL COMBINED BUFFER AREA
STREAM TYPE				
TYPE I	30'	N/A	N/A	30', both sides
TYPE II	30'	50'	N/A	50', both sides
TYPE III	30'	50'	75'	75', both sides
TYPE IV	30'	75'	100'	100' both sides
TYPE V	30'	100'	300'	300' both sides

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* Buffer distance requirements measured horizontally from the edge of the ordinary high water mark. All Preserved Buffers shall also include the stream channel in addition to the specified setback from the ordinary high water mark.

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- a. The minimum Preserved Buffer area shall be increased subject to the following:
 - (1) An additional one foot for every 1% of slope over 10%;
 - (2) An additional foot for every foot of existing impervious surface in the Buffer area; and
 - (3) Other wetlands and slopes over 25% shall not be credited to the Preserved Buffer area requirement and shall require remainder of the required Preserved Buffer area to be designated outside of these sensitive areas.
 - b. In all cases where the Preserved Buffer is increased, the Managed Buffer and Limited Development Buffer shall increase an equal additional amount.
 - c. Alternative Buffers. Alternatives to the proposed standards may be introduced by the City or landowner proposing development in a stream corridor if based on scientific studies of the specific site and surrounding impacted areas, taking into account the following factors:
 - (1) Slope;
 - (2) Groundwater and surface water flow;
 - (3) Rainfall;
 - (4) Soil infiltration rate and conditions;
 - (5) Floodplain width;
 - (6) Catchment size;
 - (7) Existing and proposed land uses;
 - (8) Impervious surfaces; ~~and~~
 - (9) Wetlands; and
 - (10) Surrounding vegetation characteristics.
4. *Allowed Uses and Limitations.* In addition to all standards and regulations of the base zoning district, the following additional limitations shall apply in the buffer areas:
- a. Preserved Buffer – The preserved buffer shall only allow uses that leave the soil and vegetation in an undisturbed state.
 - (1) Prohibited Activities. Mowing and clearing of vegetation, excavation, or any land disturbance is prohibited in this area unless it is conducted in association with restoration of natural stream conditions or occurs at a designated stream crossing.
 - (2) Allowed Uses. Unpaved recreation trails, wildlife sanctuaries, fishing and hunting, natural education and research activities are allowed in this area.
 - b. Managed Buffer – Conservation uses such as wildlife sanctuaries, fishing and hunting areas, passive park lands or Natural Open Space, unpaved recreation facilities, natural education and research activities, limited harvesting of trees and natural vegetation, sustainable agriculture practices involving only crops, camping and picnic areas.
 - c. Limited Development Buffer – Accessory buildings to other buffer uses, principal buildings to uses allowed by zoning district provided green building practices, associated site elements provided low-impact design such as porous paving etc. is used to the greatest extent practicable.
5. *Additional Limitations.*
- a. Water Pollution Hazards. In addition to the protections of the buffer areas and the underlying zoning ordinance, all streams protected by the stream

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corridor protection standards shall have the setback standards identified in Table 1125-23 for water pollution hazards:

Table 1125-23: Water pollution Hazard Setbacks

WATER POLLUTION HAZARD SETBACKS	
HAZARD	SETBACK
Storage or use of hazardous substances	150 feet
Aboveground or underground petroleum storage facilities or use of petroleum-based products	150 feet
Drain-fields from onsite sewage disposal and treatment systems (i.e., septic systems)	100 feet
Raised septic systems	250 feet
Solid waste landfills, recycling facilities, or junkyards	300 feet
Agricultural activities involving animal feed operations, grazing, or storage	250 feet
Mining of natural resources	250 feet

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b. Stream Crossings. Crossings of streams protected by these standards, by roads, driveways, storm sewers, sewer lines, water lines and utility lines shall be limited by the following:

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(1) One crossing area limited to no wider than 25 feet for each tax parcel existing at the time of adoption of these regulations and which borders both sides of the stream.

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(2) One roadway crossing area, and associated utility crossing, limited to no wider than 50 feet for every 660 linear feet.

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(3) All crossings shall be perpendicular to the stream and shall be designed to minimize and mitigate any disturbance in any Buffer area.

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D. Modifications and Exceptions. In addition to the standard procedures for variances provided in Title 1, adjustments to the buffer distances may be made to the standards of this section through the site plan procedures subject to the following:

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1. The buffer widths may be reduced at some points as long as the average width of the buffer meets the minimum requirement.

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2. Averaging of the buffers may be allowed where existing structures or other site conditions, do not compromise the function of any buffer.

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3. No impacts or disturbances on the Preserved Buffer base requirement shall be allowed, except in the Cuyahoga River Planning Area where trails, docks and observation areas may be constructed using green building practices and low-impact design such as porous paving and natural materials etc. and with approval the Planning Commission and City Council.

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4. No new structures shall be allowed in the Preserved or Managed Buffer, except in the Cuyahoga River Planning Area where new construction may take place in the Managed Buffer provided green building practices and low-impact design such as porous paving and natural materials etc. is used to the greatest extent practicable and with approval the Planning Commission and City Council.

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Section 2. Existing section 1125.02 of Chapter 1125, Title 2, Part 11 of the Codified Ordinances of the City of Cuyahoga Falls, as enacted by Ord. 62-2009, is hereby repealed.

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Section 3. Any other ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

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Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including, to the extent applicable, Chapter 107 of the Codified Ordinances.

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5 CITY OF CUYAHOGA FALLS, OHIO

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7 ORDINANCE NO. - 2012

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9 AN ORDINANCE APPROVING A PRELIMINARY AND
10 FINAL PLAT APPLICATION FOR A PUBLIC UTILITY
11 RIGHT-OF-WAY WITHIN AND ADJACENT TO
12 HEMLOCK HILLS DRIVE (UNDEDICATED) (PARCEL
13 NO. 35-04240), AND DECLARING AN EMERGENCY.
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15 WHEREAS, Art. VIII, §1.7 of the Charter of the City of Cuyahoga Falls requires
16 that all affirmative decisions made by the Planning Commission be submitted to
17 Council, and
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19 WHEREAS, the Planning Commission has jurisdiction to review, approve or
20 deny an application for a Preliminary and/or Final Plat, pursuant to Sections
21 1113.03 and 1113.04 of the Codified Ordinances, and
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23 WHEREAS, on May 15, 2012 the Planning Commission approved the
24 Preliminary and Final Plat for a subdivision of land consisting of a public utility
25 right-of-way within and adjacent to Hemlock Hills Drive (undedicated) (Parcel No.
26 35-04240), within the City of Cuyahoga Falls, Ohio, as described in File P-8-12-P,
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28 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
29 Falls, County of Summit, and State of Ohio, that:
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31 Section 1.This Council approves the Preliminary and Final Plat for a
32 subdivision of land consisting of a public utility right-of-way within and adjacent to
33 Hemlock Hills Drive, undedicated (Parcel No. 35-04240), as stipulated in the
34 Codified Ordinances of the City of Cuyahoga Falls and as approved by the Planning
35 Commission and as outlined in File P-8-12-P.
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37 Section 2.Any other ordinances or resolutions or portions of ordinances and
38 resolutions inconsistent herewith are hereby repealed, but any ordinances and
39 resolutions not inconsistent herewith and which have not previously been repealed
40 are hereby ratified and confirmed.
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42 Section 3.It is found and determined that all formal actions of this Council
43 concerning and relating to the adoption of this ordinance were adopted in an open
44 meeting of this Council, and that all deliberations of this Council and of any of its
45 committees that resulted in such formal action, were in meetings open to the
46 public, in compliance with all legal requirements, to the extent applicable,
47 including Chapter 107 of the Codified Ordinances.
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49 Section 4.This ordinance is hereby declared to be an emergency measure
50 necessary for the preservation of the public peace, health, safety, convenience and

51 welfare of the City of Cuyahoga Falls and the inhabitants thereof, for the reason
52 that it is immediately necessary to permit timely and appropriate development of
53 this property, and provided it receives the affirmative vote of two thirds of the
54 members elected or appointed to Council, it shall take effect and be in force
55 immediately upon its passage and approval by the Mayor; otherwise it shall take
56 effect and be in force at the earliest period allowed by law.

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59 Passed: _____

President of Council

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Clerk of Council

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67 Approved: _____

Mayor

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5 CITY OF CUYAHOGA FALLS, OHIO

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7 ORDINANCE NO. - 2012

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9 AN ORDINANCE AUTHORIZING PAYMENT OF THE MORAL
10 CLAIM OF LAWRENCE D. COOK AND KRISTINA S. COOK AS
11 APPROVED BY THE CLAIMS COMMISSION, AND DECLARING
12 AN EMERGENCY.

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14 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit and State
15 of Ohio, that:

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17 Section 1. The Director of Finance is hereby authorized to pay the moral claim of Lawrence
18 D. Cook and Kristina S. Cook in the amount of \$650.00 as approved by the Claims Commission
19 on April 9, 2012.

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21 Section 2. The Director of Finance is hereby authorized and directed to make payment for
22 same from the Sewer Fund, line item Other Operations.

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24 Section 3. Any other ordinances and resolutions or portions of ordinances and resolutions
25 inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of
26 ordinances and resolutions not inconsistent herewith and which have not previously been
27 repealed are hereby ratified and confirmed.

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29 Section 4. It is found and determined that all formal actions of this Council concerning
30 and relating to the adoption of this ordinance were adopted in an open meeting of this Council
31 and that all deliberations of this Council and of any of its committees that resulted in such formal
32 action were in meetings open to the public, in compliance with all legal requirements including
33 Chapter 107 of the Codified Ordinances.

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35 Section 5. This ordinance is hereby declared to be an emergency measure necessary for
36 the preservation of the public peace, health, safety, convenience and welfare of the City of
37 Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of
38 two-thirds of the members elected or appointed to Council, it shall take effect and be in force
39 immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in
40 force at the earliest period allowed by law.

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43 Passed: _____
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45 President of Council

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48 Clerk of Council

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51 Approved: _____
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53 Mayor

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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO. - 2012

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7 AN ORDINANCE AUTHORIZING THE MAYOR AND THE
8 DIRECTOR OF COMMUNITY DEVELOPMENT TO
9 ENTER INTO A MODIFICATION OF CONTRACT NO.
10 6779 WITH PORTAGE CROSSING LLC, AND
11 DECLARING AN EMERGENCY.
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13 WHEREAS, pursuant to the authority of Ordinance No. 11-2010, passed
14 February 8, 2010, the City entered into Contract No. 6779 with Portage Crossing,
15 LLC, for the sale and redevelopment of certain city-owned real property consisting
16 of Parcel Nos. 02-16740, 02-11652, 02-11653, 02-16739, 02-16738, 02-16737, 02-
17 18768 and 02-18769, formerly known as the State Road Shopping Center (the
18 "Property"), and
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20 WHEREAS, plans for redevelopment of the Property have changed such as to
21 require a modification to the contract,
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23 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of
24 Cuyahoga Falls, County of Summit and State of Ohio, that:
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26 Section 1. The Mayor and the Director of Community Development are hereby
27 authorized to enter into a modification of Contract No. 6779 with Portage Crossing,
28 LLC, substantially in the form of amendment now on file with the Clerk of Council
29 in Council File No. _____ (the "Modification"), which form this Council hereby
30 finds and determines to be satisfactory.
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32 Section 2. This Council hereby authorizes the disposition of the Property by
33 negotiation and approves the sale of the Property to Portage Crossing, LLC or an
34 affiliate thereof upon the terms and conditions contained in the Modification,
35 pursuant to the authority of this Ordinance, including the provision by the City of
36 the public improvements provided for therein for the safe and efficient flow of
37 pedestrian and vehicular traffic through the State Road and Portage Trail areas.
38 The Mayor and Director of Community Development are hereby authorized to
39 execute said Modification on behalf of the City in substantially the form on file with
40 the Clerk, together with such revisions or additions thereto as are approved by the
41 Mayor, Director of Community Development and Director of Law, and are
42 consistent with the objectives and requirements provided in this ordinance and in
43 Ord. No. 11-2010. The authorizations, findings and determinations made by this
44 Council in Ord. No. 11-2010 are reaffirmed and incorporated as if fully rewritten
45 herein, except as necessarily superceded by the Modification. The Mayor is
46 authorized to execute and deliver such deed or deeds and purchase and accept
47 delivery of such easements as are necessary to carry out Contract No. 6779 as
48 modified, and the Mayor and Director of Community Development, Director of
49 Finance, Director of Law, and other City officials, as appropriate, are authorized to
50 provide such information and to execute, certify or furnish such other documents,
51 and do all other things as are necessary for and incidental to carrying out said sale
52 of the Property pursuant to Contract No. 6779, as modified.

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Section 3. This Council hereby finds and determines that the sale of the Property for the purchase price provided in Contract No. 6779, as modified, is satisfactory and hereby determines that the redevelopment of the Property with the commercial retail facilities provided for in Contract No. 6779, as modified, will result in the achievement of important City objectives for eliminating conditions of blight, will provide for the productive development and reuse of the Property, and for the creation of jobs and employment opportunities and will improve the economic welfare of the people, all of which represent substantial additional valuable considerations to the City. This Council hereby also finds that, subject to the conditions of Contract No. 6779, as modified, being met, the Portage Crossing, LLC possesses the qualifications and financial resources necessary to acquire and develop the Property in accordance with Contract No. 6779, as modified.

Section 4. Any other ordinances and resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Chapter 107 of the Codified Ordinances.

Section 6. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof and provided, it receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: _____

President of Council

Clerk of Council

Approved: _____

Mayor

5/29/12

O:\2012ords\Modify Contract Portage Crossing