

ORDINANCE NO. 2011-38

INTRODUCED BY: Mayor Rinker and Council as a Whole

**AN EMERGENCY ORDINANCE  
AUTHORIZING AND DIRECTING THE MAYOR  
TO ENTER INTO A STANDARD EASEMENT  
FOR THE INSTALLATION AND MAINTENANCE OF A WATER  
MAIN FOR THE PURPOSE OF SUPPLYING WATER SERVICE**

WHEREAS, in coordination with the construction of the improvements at the Mayfield City School District High School premises, a water main has been installed; and

WHEREAS, the City of Cleveland has requested that they be granted an easement, along with the Village, for a perpetual right-of-way and easement over the aforementioned property depicted in the easement for the water main vault in accordance with the terms and conditions set forth in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the Village wishes to enter into the easement agreement to facilitate the installation and maintenance of the water main for the purpose of supplying water service.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MAYFIELD VILLAGE, OHIO, THAT:

SECTION 1. The Mayor is authorized and directed to enter into a standard easement for the installation and maintenance of a water main for the purpose of supplying water service with the City of Cleveland, Division of Water and the Mayfield City School District pursuant to the terms and conditions set forth in the easement which is attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

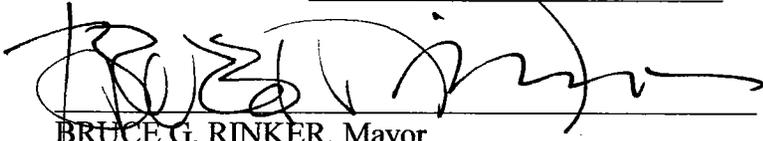
SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the health, safety and welfare of the residents of Mayfield Village, Ohio. It shall, therefore, take effect immediately upon the passage by the

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PAGE TWO

affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

  
\_\_\_\_\_  
WILLIAM BUCKHOLTZ  
Council President

First Reading:      November 21,      2011  
Second Reading:    Suspended      2011  
Third Reading:      Suspended      2011  
PASSED:              November 21,      2011

  
\_\_\_\_\_  
BRUCE G. RINKER, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOSEPH W. DIEMERT, JR.  
DIRECTOR OF LAW

ATTEST:   
\_\_\_\_\_  
MARY E. BETSA,  
Clerk of Council

**STANDARD EASEMENT  
FOR THE  
INSTALLATION AND MAINTENANCE OF A WATER MAIN  
FOR THE PURPOSE OF SUPPLYING WATER SERVICE**

(I, We) MAYFIELD CITY SCHOOL DISTRICT, the Grantor herein, for valuable consideration received and to be received to our full Satisfaction, do hereby grant and convey to the Village of Mayfield, and to the City of Cleveland, political Subdivision of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premise (the "Premises"):

Situated in the Village of Mayfield, County of Cuyahoga, State of Ohio, known as being part of the Original Mayfield Township Lot No. 20 in Tract 2, and bounded and described as follows:

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"A copy of the legal  
Description is attached hereto as  
Exhibit "A" and made a part hereof as  
If fully written herein."

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Grantor and Grantee agree that all references to either part in this instrument shall include that party and the party's heirs, administrators, successors and/or assigns.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantee the right and easement to enter upon the premises to lay, install and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances, which the Grantee deems to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantee deems to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulation of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises. The water main and appurtenances, including valves and hydrants, shall upon completion, and approval by the Grantees, become and remain the property of the Grantee and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, the City of Cleveland, now or hereafter in effect.

All service connections shall be installed in accordance with the ordinances, rules and regulations of the Grantees at the expense of owners of abutting property or others who seek water service thereby. Service connections shall be assigned to specific street mailing addresses by Grantee, City of Cleveland, when said Grantee receives the official designation of such addresses from Grantee, the Village of Mayfield.

All water meters shall be furnished and set by Grantee, City of Cleveland, at the expense of the Grantor. All water shall be supplied by Grantee, City of Cleveland, in the same manner and to the same extent that said Grantee supplies water to properties abutting on public streets in the City of Cleveland.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1 -1/2) feet above or one and one-half (1 -1/2) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the depth of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

The Grantor agrees to construct a hard surface driveway, or at least fifteen (15) feet in width, adjacent to the water main. The Access driveway shall be constructed of concrete or asphalt and shall conform to current Ohio Department of Transportation specifications.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than fifty (50) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become the property of Grantee, the Village of Mayfield.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately and at the expense of the Grantor, may enter upon the premises and discontinue water service or make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damaged to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor and the Grantees mutually agree that neither the recording of this instrument nor its acceptance by the Grantees shall be construed as a dedication of the premises or an agreement by the Grantees to accept the premises for dedication for public use as a street.

The Grantor covenants with the Grantees that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantees against all lawful claims and demands whatsoever for the purposes described herein.

TO HAVE AND TO HOLD the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at

Mayfield Ohio this 8<sup>th</sup> day of September, 20 11.

Signed in the Presence of:

Mary Kay Makar

Mary Kay Makar  
(print or type name)

Marjorie Good

Marjorie Good  
(print or type name)

GRANTOR:

[Signature]

John L. Folkman  
(print or type name)

**John L. Folkman**  
**Dir. of Business Services**

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

Before me, a Notary Public in and for said County and State, personally appeared the above-named

John L. Folkman, who acknowledged that (he, they) did sign the foregoing instrument and that the same is (his, their) free act and deed, personally and as such officer(s) and the free act and deed of said (corporation, partnership).

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at

Mayfield Ohio, this 8<sup>th</sup> day of September, 20 11.

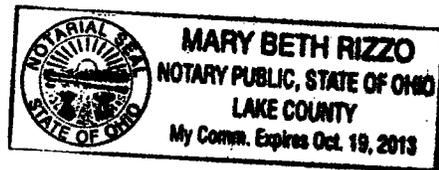
Mary Beth Rizzo

The legal form and correctness  
Of the within instrument is  
Hereby approved:

Joseph W. Demiret, Jr.  
Director of Law  
[Signature]

Village of Mayfield

10-18-11  
Date



Accepted by the Council of MAYFIELD VILLAGE by

(Resolution/Ordinance) No. 2011-38

Passed November 21, 2011.

Yvonne K. Betson

(Clerk or Assistant)

11.21.11  
(Date)

The City of Cleveland, by and through its Director of Public Utilities, does hereby accept the within easement and all the terms and conditions thereof this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as authorized by Section 129.20 of the Codified Ordinances of Cleveland, Ohio, 1976, passed by the Council of the City of Cleveland on June 17, 1991.

Signed in the presence of:

CITY OF CLEVELAND

Judith Bussler

By: La Janda (acting)  
Director of Public Utilities

The legal form and correctness  
Of the within instrument is  
Hereby approved:

Barbara Loughery  
Director of Law

By: Jan Zi  
Assistant Director of Law

Date: 9/16/11

**CHECKLIST**  
For Standard Water Service  
And Circulation Easements  
(Suburban)

Attention to the following details will expedite the processing of your easement:

Page 1

- a) First blank: insert grantor's name.
- b) Second and third blanks: insert name of community in which easement property is located (the "grantee").
- c) Fourth Blank: insert name of county in which easement property is located.
- d) Fifth and sixth blanks: insert original township name and lot number.
- e) Space after introductory paragraphs: insert legal description of easement area only, or attach it as "Exhibit A," and insert: "a copy of the legal description is attached hereto as Exhibit A and is incorporated herein as if fully rewritten".

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Insert name of the grantee (as explained in "b" above) on both lines.

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**CAUTION:** this is where mistakes are most frequently made.

- a) The grantor must sign in the presence of **TWO** witness and, on the lines immediately preceding his/her signature, must insert the date of and place at which the signing occurred.
- b) If the grantor is signing on behalf of a partnership, corporation, etc., he/she must indicate his representative capacity (President, Agent, etc.).
- c) The grantors signature must be notarized.
- d) The grantee must accept the easement:
  - 1) The easement form must be accompanied by the ordinance or resolution by which the grantee accepts the grant of easement;
  - 2) The grantee's Law Director must approve the document; and
  - 3) The grantees Clerk of Council must note the Council's approval.
- e) The remaining lines of the Easement should be left blank. They will be filled in by the City of Cleveland.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR**  
**WATER EASEMENT OVER PROPERTY OWNED BY:**  
**MAYFIELD BOARD OF EDUCATION**  
**AS RECORDED IN DOCUMENT NUMBER: 200910281211**

Situated in the Village of Mayfield, County of Cuyahoga and State of Ohio:  
Known as being part of Original Mayfield Township Lot No. 20, in Tract No. 2 in said Township, bounded and described as follows:

Beginning at the intersection of the easterly line of Lander Road (80') and the southwesterly corner of tax parcel number 831-31-032, owner by Lawrence J. and Grace J. Kuk as recorded in document number 201008260046 of Cuyahoga County Records, said point being the Principal Place of Beginning;

THENCE, S 00°32'48" E, along the easterly line of said Lander Road, a distance of 50.00 feet to a point;

THENCE, N 89°27'12" E, a distance of 30.00 feet to point;

THENCE, N 00°32'48" W, a distance of 30.00 feet to point located on the southerly line of said Kuk property;

THENCE, S 89°27'12" W, a distance of 10.00 feet to point of curvature;

THENCE, along a curve to the right having a central angle of 90°00'42", a radius of 20.00 feet and a chord which bears N 45°32'27"W, a distance of 28.29 feet to the Principal Place of Beginning and containing 983.5 square feet of land as calculated and described in August of 2011 by John R. Alban Professional Surveyor 7651.

# WATER EASEMENT

## EXHIBIT "A"

LAWRENCE J. & GRACE J. KUK  
DCC. #201008260046  
PPN 831-31-032



$L=31.42'$   
 $R=20.00'$

S 89°27'11" W  
10.00'

WATER EASEMENT

MAYFIELD BOARD OF EDUCATION  
DCC. #200910281211

S 00°32'48" E 50.00'

N 00°32'48" W 30.00'

N 89°27'12" E  
30.00'

# LANDER ROAD (80')

Prepared by:  
**ALBAN SURVEYING CO.**  
38052 Euclid Avenue, Suite 200  
Willoughby, OH 44094  
Phone: 440-946-0752