

MORGANTOWN, INDIANA CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “Morgantown Town Code”, for which designation “code of ordinances”, “codified ordinances”, or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and

effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refers to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters, or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application, or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

(I.C. 1-1-1-5)

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary, and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLERK-TREASURER. The Clerk-Treasurer of the Town of Morgantown, Indiana.

COUNCIL or **TOWN COUNCIL.** The Town Council of the Town of Morgantown, Indiana.

COUNTY. Morgan County, Indiana.

HIGHWAY. Includes bridges, roads, and streets, unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver, and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and **FOLLOWING.** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

STATE. The State of Indiana.

TOWN. The Town of Morgantown, Indiana.

TOWNSHIP. The township or townships in which the town is located.

WRITTEN and **IN WRITING.** Include printing, lithographing, or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.

(I.C. 1-1-4-5)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a non-severability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a section or amendment stating that the provisions of a chapter, subchapter, or section are severable as provided in division (B) above does not affect the operation of division (B) above with respect to that chapter, subchapter, or section.

(I.C. 1-1-1-8)

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the town exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated; on the effective date of that ordinance or following the effective date, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority, or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers, and rights were transferred.

(I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean the time which is

necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday, or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

(A) When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides.

(B) The repeal of any section shall not extinguish or release any penalty, forfeiture, or liability incurred under the section, unless the repealing section so expressly provides.

(C) The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability.

(I.C. 1-1-5-1)

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings, and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

Statutory reference:

Periods of limitation, see I.C. 1-1-1-7

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the Town Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example:

(Ord. 1960-01, passed 5-13-1960; Ord. 1970-15, passed 1-1-1970; Ord. 1980-20, passed 1-1-1980; Ord. 1985-25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:

(I.C. 36-5-2-2)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see I.C. 5-14-3-1 et seq.

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way,

contracts entered into, or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(1) A fine not exceeding \$2,500 for the first violation; and

(2) A fine not exceeding \$7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Authority, see I.C. 36-1-3-8(a)(10)

Chapter

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32. TOWN OFFICIALS AND EMPLOYEES

33. FINANCE

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CHAPTER 30: GENERAL PROVISIONS

Section

30.01 Compensation of officers and employees

§ 30.01 COMPENSATION OF OFFICERS AND EMPLOYEES.

Officers and employees of the town shall be compensated at a rate as established by Town Council ordinance from time to time.

Cross-reference:

Budgets, see §§ 33.20 through 33.22

CHAPTER 31: TOWN COUNCIL

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GENERAL PROVISIONS

§ 31.001 TERM OF OFFICE.

(A) Except as otherwise provided in I.C. 36-5-2-3(b), (c), (d), (e), (f), or (g), the term of office of a member of the Town Council is four years, beginning at 12:00 p.m. January 1 after the member's election and continuing until the member's successor is elected and qualified.

(I.C. 36-5-2-3(a))

(B) (1) It would be in the best interest of the town to provide for staggered terms of the Town Council members for the town so that not all Town Council members are elected in one election year which could result in all new council members elected in one election year and to provide for town elections to be conducted in general election years to save the town the cost of conducting elections in the town. Therefore, the following shall be adopted.

(a) The three candidates elected to the Town Council in 2011 who receive the highest number of votes shall serve a three-year term beginning on January 1, 2012. At the end of the three-year term, these three seats shall be placed on the ballot in 2014, and every four years thereafter, for terms of four years.

(b) The two candidates elected to the Town Council seats in 2011 who receive the lowest number of votes shall serve a one-year term beginning January 1, 2012. At the end of the one-year term, these two seats shall be placed on the ballot in 2012, and every four years thereafter, for terms of four years.

(c) The Clerk-Treasurer elected in 2011 shall serve a three-year term beginning on January 1, 2012. At the end of the three-year term, the Clerk-Treasurer shall be placed on the ballot in 2014, and every four years thereafter, for a term of four years.

(2) The Clerk-Treasurer shall forward a signed copy of the ordinance codified herein to the Circuit Court Clerk of the county and shall request the Clerk to include a copy of the ordinance codified herein in the records of the county's Election Board.

(3) This section shall be in full force and effect from and after the date of its passage.

(Ord. 2010-3, passed 10-5-2010)

§ 31.002 RESIDENCY REQUIRED.

(A) A member of the Town Council must reside within:

- (1) The town as provided in the State Constitution, Article 6, § 6; and
- (2) The district from which the member was elected, if applicable.

(B) A member of the Town Council who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district.

(C) A member of the Town Council who is elected by the voters of the entire town but is elected or selected as a candidate from a district forfeits office if the member ceases to be a resident of the district.

(D) An at-large member of the Town Council forfeits office if the member ceases to be a resident of the town.

(I.C. 36-5-2-6)

§ 31.003 POWERS AND DUTIES.

The Town Council may:

(A) Adopt ordinances and resolutions for the performance of functions of the town;

(B) Purchase, hold, and convey any interest in property for the use of the town; and

(C) Adopt and use a common seal.

(I.C. 36-5-2-9)

§ 31.004 PRESIDENT.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed his or her term of office as a member of the Town Council.

(I.C. 36-5-2-7)

§ 31.005 AUTHORITY TO HIRE DEPUTY AND RESERVE MARSHALS.

(A) Pursuant to I.C. 36-5-7-6, the Town Council hereby fixes the number of deputy town marshals at two. The number of reserve town marshals is not fixed.

(B) The Town Marshal is not authorized to appoint deputy or reserve town marshals and any prior appointing authority granted to the Town Marshal is hereby revoked.

(C) This section was effective upon its final adoption.

(Ord. 2013-1, passed 4-4-2013)

MEETINGS; GENERAL PROVISIONS

§ 31.020 OPEN MEETINGS.

All meetings of the Town Council shall be held in accordance with state law regarding open meetings, being I.C. 5-14-1.5.

§ 31.021 EXECUTIVE SESSIONS.

(A) As used in this section, **PUBLIC OFFICIAL** means a person: who is a member of a governing body of a public agency; or whose tenure and compensation are fixed by law and who executes an oath.

(B) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute;

(2) (a) For discussion of strategy with respect to any of the following:

1. Collective bargaining;

2. Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this division (B)(2)(a)2., **LITIGATION** includes any judicial action or administrative law proceeding under federal or state law;

3. The implementation of security systems;

4. The purchase or lease of real property by the Town Council up to the time a contract or option to purchase or lease is executed by the parties; or

5. School consolidation.

(b) However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems;

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the State Economic Development Corporation, the Office of Tourism Development, the State Finance Authority, the ports of the state, an Economic Development Commission, the State Department of Agriculture, a local economic development organization (as defined in I.C. 5-28-11-2(3)), or a governing body of a political subdivision;

- (5) To receive information about and interview prospective employees;
- (6) With respect to any individual over whom the Town Council has jurisdiction: to receive information concerning the individual's alleged misconduct; and to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is a physician or a school bus driver;
- (7) For discussion of records classified as confidential by state or federal statute;
- (8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs;
- (9) To discuss a job performance evaluation of individual employees. This division (B)(9) does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process;
- (10) When considering the appointment of a public official to do the following: develop a list of prospective appointees; consider applications; make one initial exclusion of prospective appointees from further consideration; and notwithstanding I.C. 5-14-3-4(b)(12), the Town Council may release and shall make available for inspection and copying in accordance with I.C. 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three unless there are fewer than three prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public;
- (11) To train School Board members with an outside consultant about the performance of the role of its members as public officials;
- (12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under I.C. 25;
- (13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism; or
- (14) To train members of a board of aviation commissioners appointed under I.C. 8-22-2 or members of an airport authority board appointed under I.C. 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one executive session per calendar year under this division (B)(14).

(C) A final action must be taken at a meeting open to the public.

(D) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under division (B) above. The requirements stated in § 31.024 for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The Town Council shall certify by a statement in the memoranda and minutes of the Town Council that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(E) The Town Council may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this division (E).

(I.C. 5-14-1.5-6.1)

§ 31.022 NOTICE OF MEETINGS.

Regular meetings of the Town Council shall be held at a time and place established by the Town Council. Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting shall be given by the Town Council by posting a copy of the notice at the principal office of the Town Council, or if no such office exists, at the building where the meeting is to be held.

§ 31.023 AGENDA.

(A) The Town Council, when utilizing an agenda, shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void.

(I.C. 5-14-1.5-4(a))

(B) The Town Council shall designate a person who shall prepare the agenda for each meeting.

§ 31.024 RECORD OF MEETINGS.

(A) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting;
- (2) The members of the Town Council recorded as either present or absent;
- (3) The general substance of all matters proposed, discussed, or decided;
- (4) A record of all votes taken, by individual members if there is a roll call; and
- (5) Any additional information required under I.C. 5-14-1.5-3.5 or 5-14-1.5-3.6 or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

(B) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the Town Council's proceedings. The minutes, if any, are to be open for public inspection and copying.

(I.C. 5-14-1.5-4(b) and (c))

§ 31.025 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.

(I.C. 36-5-2-9.2)

§ 31.026 CLERK-TREASURER; TIE-BREAKING VOTE.

The Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

(I.C. 36-5-2-8)

MEETINGS; RULES OF PROCEDURE

§ 31.040 PRESIDING OFFICER.

The Council President shall take the chair at the hour appointed, or to which the Council shall have adjourned, and shall immediately call the members to order; whereupon, the Clerk-Treasurer shall proceed to call the roll of members. If a quorum is present, the Clerk-Treasurer shall so announce and the Council shall proceed with the order of business.

Cross-reference:

Election of Council President, see § 31.004

§ 31.041 QUORUM FOR CONDUCTING BUSINESS.

A quorum shall consist of a majority of the entire Council, including the Council President. A quorum shall be necessary to transact the business of the Town Council. If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall adjourn or recess the Council by a majority vote.

§ 31.042 ABSENCE OF PRESIDENT.

At any meeting of the Council where a majority shall be assembled, and if the President is temporarily absent but within or near the community, the Clerk-Treasurer shall preside and call the roll, whereupon the Council shall elect a temporary Chairperson from its membership. In the event that the absence of the President shall be of a more permanent nature, a President Pro Tem shall be elected.

§ 31.043 DUTIES OF THE PRESIDENT.

(A) The President shall preserve order and decorum and may speak to points of order in preference to other members, and shall decide all questions of order subject to appeal.

(B) If the President refuses to allow the Council members to exercise their right to appeal a decision of the President, the Council members may consider and pass upon the matter in spite of the President's failure to grant them appeal.

(C) The President shall have the power to require the Council room to be cleared, or to have any disorderly person or persons ejected, in case of any disturbances or disorderly conduct which prevent the meeting from being continued in an orderly manner.

(D) Nothing in this code shall preclude the President from making or seconding a motion, or from voting on any matters coming before the Council.

§ 31.044 DUTIES OF COUNCIL MEMBERS.

(A) While the President is stating the motion, or deciding a point of order, the members shall be seated and no member shall leave the Council room during the session without permission from the presiding officer.

(B) Every member, prior to his or her speaking, making a motion or seconding the same, shall address the President and shall not proceed with his or her remarks until recognized and named by the Chair.

(C) A member so recognized by the President shall confine himself or herself to the question under debate.

(D) No member shall speak more than once on the same question, except by permission of the President, and then not until every other member desiring to speak shall have had an opportunity to do so.

(E) No member shall speak longer than five minutes at any one time, except by consent of the President.

(F) While a member is speaking, no member shall hold any private discussion, nor pass between the speaker and the President.

(G) A member, when called to order by the President, shall thereupon discontinue speaking. The order or ruling of the President shall be binding and conclusive, subject only to the right to appeal.

(H) Any member may appeal to the Council from a ruling of the President and, if the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the President may briefly explain his or her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The President shall then put the question, "Shall the decision of the President be overruled?" Otherwise, it shall be sustained.

(I) The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character, or motives are assailed, questioned, or impugned.

§ 31.045 SECONDING OF MOTIONS REQUIRED.

No motion shall be put or debated in the Council or in committee unless it be seconded. When a motion is seconded, it shall be stated by the President before debate.

§ 31.046 WITHDRAWAL OF MOTIONS.

After a resolution or a motion is stated by the President, it shall be deemed to be in the possession of the Council, but it may be withdrawn by the maker thereof with or without the consent of the Council member seconding the motion prior to the call for the vote by the President.

§ 31.047 DIVISION OF QUESTIONS.

If any question under consideration contains several distinct propositions, the Council, by a majority vote of the members present, may divide the questions.

§ 31.048 RECORD OF MOTIONS.

In all cases where a resolution or motion is entered in the journal, the names of the members moving and seconding the same shall be entered.

§ 31.049 VOTE.

(A) The ayes and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the town, or for the expenditure or appropriation of its money, and upon any question and in all other cases, at the request of any member of the Council. When the Clerk-Treasurer has commenced to call the roll of the Council for the taking of a vote by "Ayes" and "Nays", all debate on the question before the Council shall be deemed concluded, and during the taking of the vote a member shall be permitted to briefly explain his or her vote and shall respond to the calling of his or her name by the Clerk-Treasurer by answering "Aye" or "Nay", as the case may be.

(B) An abstention is neither an affirmative vote nor a negative vote. Regardless of the number of abstentions, and except as otherwise provided by law, an affirmative vote of the majority of the Council members is required to pass a motion, ordinance, resolution, or other action of the Town Council.

(C) The President shall announce the result of the Council's vote and the votes shall be entered in the journal of the proceedings.

Cross-reference:

Two-thirds vote; when required, see § 31.076

§ 31.050 PRECEDENCE OF MOTION.

When a question is before the Council, no motion shall be received, except as specified in this section, and which shall have precedence in the following order:

(A) To fix the time to which to adjourn;

(B) To adjourn;

(C) To take a recess;

(D) To raise a question of privilege;

(E) To call for the orders of the day;

- (F) To lay on the table;
- (G) To call for the previous question;
- (H) To postpone to a certain time;
- (I) To refer to committee;
- (J) To amend;
- (K) To postpone indefinitely; and
- (L) To the main motion.

§ 31.051 UNDEBATABLE MOTIONS AND EXCEPTIONS TO ORDER.

The motion to adjourn or to lay on the table shall be decided without debate, and the motion to fix the time to which to adjourn and the motion to adjourn shall always be in order, except:

- (A) When a member is in possession of the floor;
- (B) When the roll call votes are being called;
- (C) While the members are voting;
- (D) When adjournment was the last preceding motion; or
- (E) When it has been decided that the previous question shall be taken.

§ 31.052 MOTION TO ADJOURN.

A motion to adjourn cannot be amended; but a motion to adjourn to a given day or time shall be open to amendment and debate.

§ 31.053 MOTION TO POSTPONE INDEFINITELY.

When a question is postponed indefinitely, it shall not be taken up again before the next regular meeting.

§ 31.054 MOTION TO AMEND.

A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be entertained.

§ 31.055 AMENDMENTS.

Only one amendment at a time may be offered to any question before the Council. The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed. Finally, a vote shall be taken on the principal motion as finally amended.

§ 31.056 RECONSIDERATION.

(A) A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration, once having been made and decided in the negative, shall not be renewed. A matter once having been decided and a motion to reconsider the matter having been defeated, it may nonetheless come before the Council at a future time by way of a motion to rescind or as a new motion. If the President determines that new facts are to be presented to the Council, or that there is a likelihood that the Council will reverse its previous decision, the Chair shall rule the motion in order. If a motion is continuously brought before the Council and rejected, the President may rule its reintroduction under a motion to rescind or as a new motion to be out of order.

(B) No motion to reconsider the approval or denial of the recommendation of an advisory body required to hold public hearings shall be entertained except at the same meeting at which the original action was taken or after the matter has been referred to the advisory body for a further hearing and recommendation.

(C) A motion to reconsider must be made and seconded by members who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of the motion, then in that case a motion to reconsider may be made and seconded only by those who voted in the affirmative on the question to be reconsidered, so long as the issue presented is the same, no new information is forthcoming, and the rights of third parties have not intervened.

§ 31.057 VISITORS AND PETITIONERS.

Except during the time allotted for public discussion and comments, no person other than a member of the Council shall address that body, except with the consent of a majority of the members present.

§ 31.058 REPORTS, COMMUNICATIONS, PETITIONS, AND THE LIKE.

All communications, reports, petitions, or any other papers addressed to the Council shall be made

available to the Clerk-Treasurer prior to the meeting. The Clerk-Treasurer shall endeavor to distribute copies or read the material to the members of the Council.

§ 31.059 ADOPTION OF ROBERT'S RULES OF ORDER, REVISED.

The rules of parliamentary practice comprised in the latest published edition of *Robert's Rules of Order*, revised, shall govern the Council in all cases to which they are applicable and in which they are not inconsistent with the ordinances of the town, including these rules, or the statutes of the state.

§ 31.060 TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES.

The rules of the Council may be temporarily suspended, altered, or amended by concurrence of a majority vote of all the Council members then in office.

ORDINANCES AND RESOLUTIONS

§ 31.075 MAJORITY VOTE; WHEN REQUIRED.

(A) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a majority vote means at least a majority vote of all the elected members.

(I.C. 36-5-2-9.4(a))

(B) A majority vote of the Town Council is required to pass an ordinance unless a greater vote is required by statute.

(I.C. 36-5-2-9.6)

Cross-reference:

Effect of abstentions, see § 31.049

§ 31.076 TWO-THIRDS VOTE; WHEN REQUIRED.

(A) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.

(I.C. 36-5-2-9.4(b))

(B) A two-thirds vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the Town Council on the same day or at the same meeting at which it is introduced.

(C) Division (B) above does not apply to the following:

(1) A zoning ordinance or an amendment to a zoning ordinance adopted under I.C. 36-7; or

(2) An ordinance to increase the number of Town Council members adopted under I.C. 36-5-2-4.2, unless the ordinance also establishes new Town Council districts.

(I.C. 36-5-2-9.8)

§ 31.077 DATE OF ADOPTION; PUBLICATION.

(A) An ordinance, order, or resolution passed by the Town Council is considered adopted when it is signed by the President of Council. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(B) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by I.C. 5-3-1 unless:

(1) It is published under division (C) below; or

(2) It declares an emergency requiring its immediate effectiveness and is posted in:

(a) One public place in each district in the town; or

(b) A number of public places in the town equal to the number of Town Council members, if the town has abolished Town Council districts under I.C. 36-5-2-4.1.

(C) Except as provided in division (E) below, if the town publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this division (C), it takes effect upon publication. Publication under this division (C), if authorized by the Town Council, constitutes presumptive evidence:

(1) Of the ordinances in the book or pamphlet;

(2) Of the date of adoption of the ordinances; and

(3) Of the ordinances having been properly signed, attested, recorded, and approved.

(D) This section (other than division (F) below) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under I.C. 36-7.

(E) An ordinance increasing a building permit fee on new development must:

(1) Be published one time in accordance with I.C. 5-3-1, and not later than 30 days after the ordinance is adopted by the Town Council in accordance with I.C. 5-3-1; and

(2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published under division (E)(1) above.

(F) Subject to division (J) below, the Town Council shall:

(1) Subject to division (G) below, give written notice to the Department of Environmental Management not later than 60 days before amendment or repeal of an environmental restrictive ordinance; and

(2) Give written notice to the Department of Environmental Management not later than 30 days after passage, amendment, or repeal of an environmental restrictive ordinance.

(G) Upon written request by the Town Council, the Department of Environmental Management may waive the notice requirement of division (F)(1) above.

(H) An environmental restrictive ordinance passed or amended after 2009 by the Town Council must state the notice requirements of division (F) above.

(I) The failure of an environmental restrictive ordinance to comply with division (H) does not void the ordinance.

(J) The notice requirements of division (F) above apply only if the municipal corporation received, under I.C. 13-25-5-8.5(f), written notice that the department is relying on the environmental restrictive ordinance referred to in division (F) above as part of a risk based remediation proposal:

(1) Approved by the department; and

(2) Conducted under I.C. 13-22, I.C. 13-23, I.C. 13-24, I.C. 13-25-4, or I.C. 13-25-5.

(I.C. 36-5-2-10)

§ 31.078 RECORD OF ORDINANCES.

(A) Within a reasonable time after an ordinance of the Town Council is adopted, the Clerk-Treasurer shall record it in a book kept for that purpose. The record must include:

(1) The signature of the President of Council;

(2) The attestation of the Clerk-Treasurer; and

(3) The date of each recorded item.

(B) The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance. (I.C. 36-5-2-10.2)

CHAPTER 32: TOWN OFFICIALS AND EMPLOYEES

Section

General Provisions

32.01 Primary election for town office candidates

32.02 Police reserve officers

Clerk-Treasurer

32.15 Residency requirement

32.16 Election; term of office

32.17 Powers and duties

32.18 Deputies and employees

32.19 Office space

32.20 Vacancy in office

Town Marshal

32.35 Appointment; compensation

32.36 Removal from office; discipline

32.37 Powers and duties

32.38 Service as Street Commissioner and Fire Chief

32.39 Deputy marshals; Humane Officer

32.40 Body armor

Cross-reference:

Clerk-Treasurer as Ordinance Violations Clerk, see § 34.02

GENERAL PROVISIONS

§ 32.01 PRIMARY ELECTION FOR TOWN OFFICE CANDIDATES.

(A) Effective as of January 1, 2016 and beginning with the 2016 town's municipal election, a primary election will be held to nominate candidates for all town offices pursuant to and in the manner prescribed by I.C. 3-8-5-2 and all other applicable sections of the state code.

(B) The Morgan County Election Board shall conduct the primary election for the town.

(C) All statutes governing primary elections for Indiana towns shall apply.

(Ord. 2015-15, passed 12-30-2015)

§ 32.02 POLICE RESERVE OFFICERS.

(A) The town is authorized to and will appoint up to 12 police reserve officers to the town's Police Department, subject to all applicable provisions of the Indiana Code, including, without limitation, those code sections referred to in the recitals section of the ordinance codified herein.

(B) The Town Council is the appointing authority of all town police reserve officers.

(Ord. 2014-2, passed 2-10-2014)

CLERK-TREASURER

§ 32.15 RESIDENCY REQUIREMENT.

The Clerk-Treasurer must reside within the town as provided in the Indiana Constitution, Article 6, § 6. The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town.

(I.C. 36-5-6-3(a))

§ 32.16 ELECTION; TERM OF OFFICE.

(A) *Election.* The Clerk-Treasurer shall be elected under I.C. 3-10-6 or 3-10-7 by the voters of the whole town.

(I.C. 36-5-6-4)

(B) *Term of office.* Except as provided in I.C. 36-5-6-3(c), (d), (e), or (f), the term of office of the Clerk-Treasurer is four years, beginning at 12:00 p.m. on January 1 after election and continuing until a successor is elected and qualified.

(I.C. 36-5-6-3(b))

§ 32.17 POWERS AND DUTIES.

(A) The Clerk-Treasurer is both the Town Clerk and the Town Fiscal Officer.

(I.C. 36-5-6-2)

(B) The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.

(I.C. 36-5-6-5)

(C) The Clerk-Treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the Town Council;

(2) Keep accounts showing when and from what sources the Clerk-Treasurer has received town money, and when and to whom the Clerk-Treasurer has paid out town money;

(3) Prescribe payroll and account forms for all town offices;

(4) Prescribe the manner in which creditors, officers, and employees shall be paid;

(5) Manage the finances and accounts of the town and make investments of town money;

(6) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate;

(7) Maintain custody of the town seal and the records of the Town Council;

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance;

(9) Serve as Clerk of the Town Council by attending its meetings and recording its proceedings;

(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee; and

(11) Perform all other duties prescribed by statute.

(I.C. 36-5-6-6)

§ 32.18 DEPUTIES AND EMPLOYEES.

(A) The Clerk-Treasurer shall appoint the number of deputies and employees needed for the effective

operation of the office, with the approval of the Town Council. The Clerk-Treasurer's deputies and employees serve at the Clerk-Treasurer's pleasure.

(B) If the town owns a utility and the Clerk-Treasurer is directly responsible for the billing and collection of that utility's rates and charges, the Clerk-Treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the Clerk-Treasurer's pleasure.

(I.C. 36-5-6-7)

(C) (1) The Clerk-Treasurer may hire or contract with competent attorneys or legal research assistants on terms the Clerk-Treasurer considers appropriate.

(2) Appropriations for the salaries of attorneys and legal research assistants employed under this division (C) shall be approved in the annual budget and must be allocated to the Clerk-Treasurer for the payment of attorneys' and legal research assistants' salaries.

(I.C. 36-5-6-8)

§ 32.19 OFFICE SPACE.

If office space exists in a building owned or leased by the town, the Town Council shall provide suitable office space for the Clerk-Treasurer and staff and records of the Clerk-Treasurer.

(I.C. 36-5-6-5.1)

§ 32.20 VACANCY IN OFFICE.

(A) This section applies if the office of Town Clerk-Treasurer is vacant and the Town Council is unable to fill the office under I.C. 3-13-9-3.

(B) The Town Council may select a Town Council member, who shall assume the duties of the office of Clerk-Treasurer. For purposes of the Indiana Constitution, Article 2, § 9 and state law, if a Town Council member serves as the ex officio Clerk-Treasurer, the duties assumed by the Town Council member:

(1) Are considered part of the duties prescribed by law for the office of Town Council member; and

(2) Are not considered a second office. A Town Council member may not receive any additional compensation for assuming the duties of the Clerk-Treasurer.

(C) The Town Council may enter into an interlocal agreement under I.C. 36-1-7 with the Town Clerk-Treasurer and Town Council of another town in the state to assist the Town Council member selected under division (B) above in performing the duties of the Clerk-Treasurer's office. The agreement may not last longer than the remainder of the vacant Clerk-Treasurer's term and must meet the requirements of I.C. 36-1-7.

(D) If an agreement cannot be reached under division (C) above, the Town Council may enter into a contract with a certified public accountant to assist the Town Council member selected under division (B) above in performing the duties of the Clerk-Treasurer's office. The contract may not last longer than the remainder of the vacant Clerk-Treasurer's term.

(I.C. 36-5-6-9)

TOWN MARSHAL

§ 32.35 APPOINTMENT; COMPENSATION.

The Town Council shall appoint the Town Marshal and shall fix his or her compensation.

(I.C. 36-5-7-2)

§ 32.36 REMOVAL FROM OFFICE; DISCIPLINE.

The Town Marshal serves at the pleasure of the Town Council. However, before terminating or suspending a Town Marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9, the Town Council must conduct the disciplinary removal and appeals procedures prescribed by I.C. 36-8 for municipal fire and police departments.

(I.C. 36-5-7-3)

§ 32.37 POWERS AND DUTIES.

(A) The Town Marshal is the chief police officer of the town and has the powers of other law enforcement officers in executing the orders of the Town Council and enforcing laws.

(B) The Town Marshal or his or her deputy:

(1) Shall serve all process directed to him or her by the Town Court or Town Council;

(2) Shall arrest without process all persons who commit an offense within his or her view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) Shall suppress breaches of the peace;

(4) May, if necessary, call the power of the town to his or her aid;

(5) May execute search warrants and arrest warrants; and

(6) May pursue and jail persons who commit an offense.

(I.C. 36-5-7-4)

§ 32.38 SERVICE AS STREET COMMISSIONER AND FIRE CHIEF.

The Town Council may require the Town Marshal to serve as the Street Commissioner, Chief of the Fire Department, or both.

(I.C. 36-5-7-5)

§ 32.39 DEPUTY MARSHALS; HUMANE OFFICER.

(A) The Town Council shall by ordinance fix the number of deputy marshals. The Town Council may by ordinance authorize the Town Marshal to appoint deputy marshals. Deputy marshals have the powers and liabilities of the Town Marshal in executing the orders of the Town Council or enforcing laws.

(B) One deputy marshal may be designated as the Town Humane Officer. He or she has the duties prescribed by I.C. 36-8 for municipal humane officers.

(C) The Town Council shall fix the amount of bond, compensation, and term of service of deputy marshals. The Town Marshal may dismiss a deputy marshal at any time. However, a deputy marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9 may be dismissed only if the procedure prescribed by I.C. 36-8 is followed.

(I.C. 36-5-7-6)

§ 32.40 BODY ARMOR.

(A) As used in this section, **BODY ARMOR** has the meaning set forth in I.C. 35-47-5-13(a).

(B) After December 31, 2010, the town shall provide the Town Marshal and active deputy marshals of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(C) The Town Marshal and active deputy marshals of the town may not be required to pay for maintenance of the body armor for the torso furnished under this section.

(D) Body armor for the torso provided by the town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the General Fund of the town.

(I.C. 36-5-7-7)

CHAPTER 33: FINANCE

Section

Disbursement of Funds

33.01 Appropriation required

33.02 Issue of warrants

33.03 Allowance of claims

33.04 Warrants for payment of claims

33.05 Payment of compensation to officer or employee prior to vacation leave

33.06 Claim payments in advance of allowance

33.07 Transfer of funds

33.08 Clerk-Treasurer claim payments

Budgets

33.20 Preparation of annual budget estimates

33.21 Preparation and approval of ordinance fixing tax rate; making annual appropriations

33.22 Increase or decrease of appropriations after approval of ordinance

Funds; Fees

- 33.35 Control Fund for restricted donations
- 33.36 Law Enforcement Equipment Fund
- 33.37 Fees and charges for copies of public records

DISBURSEMENT OF FUNDS

§ 33.01 APPROPRIATION REQUIRED.

Unless a statute provides otherwise, town monies may be disbursed only after an appropriation made by ordinance of the Town Council and recorded in a book kept for that purpose by the Town Council. Each appropriation must be made from the fund against which the expenses arose.

(I.C. 36-5-4-2)

§ 33.02 ISSUE OF WARRANTS.

(A) The Town Council or a board of the town may order the issuance of warrants for payment of money by the town only at a meeting of the Town Council or board.

(B) A town officer who violates this section forfeits his or her office.

(I.C. 36-5-4-3)

§ 33.03 ALLOWANCE OF CLAIMS.

(A) Except as provided in § 33.06, the Town Council or a board of the town may allow a claim:

(1) Only at a meeting of the Town Council or board; and

(2) Only if the claim was filed in the manner prescribed by I.C. 5-11-10-2 at least five days before the meeting.

(B) A town officer who violates this section forfeits his or her office.

(I.C. 36-5-4-4)

§ 33.04 WARRANTS FOR PAYMENT OF CLAIMS.

(A) As used in this section, *CLAIM* means a bill or an invoice submitted for goods or services.

(B) Except as provided in § 33.06, a warrant for payment of a claim against the town may be issued only if the claim is:

(1) Supported by a fully itemized invoice or bill under I.C. 5-11-10-1.6;

(2) Filed with the Town Clerk-Treasurer;

(3) Certified by the Clerk-Treasurer before payment that each invoice is true and correct; and

(4) Allowed by the Town Council or by the board of the town having jurisdiction over allowance of the payment of the claim.

(C) The certification by the Clerk-Treasurer under division (B)(3) above must be on a form prescribed by the State Board of Accounts.

(I.C. 36-5-4-6)

§ 33.05 PAYMENT OF COMPENSATION TO OFFICER OR EMPLOYEE PRIOR TO VACATION LEAVE.

One to three days before the vacation leave period of a town officer or employee begins, the town may pay him or her the amount of compensation he or she will earn while he or she is on vacation leave.

(I.C. 36-5-4-7)

§ 33.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The Clerk-Treasurer is authorized to make claim payments in advance of Town Council allowance for the following types of expenses:

(1) Property or services purchased or leased from the federal government or an agency or a political subdivision of the federal government;

(2) License fees or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) Federal grant programs, if advance funding is not prohibited and the contracting party provides sufficient security for the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance agreements or service agreements;

- (8) Lease agreements or rental agreements;
- (9) Principal and interest payments on bonds;
- (10) Payroll;
- (11) State, federal, or county taxes;
- (12) Expenses that must be paid because of emergency circumstances; and
- (13) Expenses described in an ordinance.

(B) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the Clerk-Treasurer.

(C) The Town Council shall review and allow the claim at the Council's next regular or special meeting following the preapproved payment of the expense.

(I.C. 36-5-4-12)

§ 33.07 TRANSFER OF FUNDS.

(A) Notwithstanding I.C. 8-14-1 and 8-14-2, the town may transfer money distributed to the town from the motor vehicle highway account under I.C. 8-14-1; the local road and street account under I.C. 8-14-2; or the motor vehicle highway account under I.C. 8-14-1 and the local road and street account under I.C. 8-14-2 to any other town fund after the passage of an ordinance or a resolution by the Town Council that specifies the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer.

(B) However, the total amount of all money transferred by the town under this section may not exceed \$40,000.

(I.C. 36-5-4-13(b))

§ 33.08 CLERK-TREASURER CLAIM PAYMENTS.

(A) The Clerk-Treasurer may make claim payment for the following kinds of expenses:

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions;

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payment or utility connection charges;

(5) Federal grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance or service agreements;

(8) Leases or rental agreements;

(9) Principal and interest payments on debt;

(10) Payroll;

(11) State, federal, or county taxes;

(12) A product or services for which the Town Council had accepted a bid;

(13) Expenses described in town ordinances;

(14) Professional dues, subscriptions, and expenses for the education and development of public officials and employees of the town; and/or

(15) Expenses that must be paid because of emergency circumstances. Any emergency expense must be accompanied by a written emergency statement from the Town Council President prior to incurring the expense. If the Town Council President is not available, the departmental head responsible for that service shall execute the necessary emergency statement.

(B) Each payment of expense must be supported by a fully itemized invoice or bill and certification by the Clerk-Treasurer.

(C) The Town Council shall review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(Ord. 2008-3, passed 8-5-2008)

BUDGETS

§ 33.20 PREPARATION OF ANNUAL BUDGET ESTIMATES.

Before the submission of notice of budget estimates required by I.C. 6-1.1-17-3, the town shall formulate a

budget estimate for the ensuing budget year in the following manner, unless the town provides by ordinance for a different manner.

(A) Each department head shall prepare for the department head's department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure the department head anticipates.

(B) The Clerk-Treasurer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.

(C) The President of Council shall meet with the department heads and the Clerk-Treasurer to review and revise their various estimates.

(D) After the President's review and revision, the Clerk-Treasurer shall prepare for the President a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

(I.C. 36-5-3-3)

Cross-reference:

Compensation of officials and employees, see § 30.01

§ 33.21 PREPARATION AND APPROVAL OF ORDINANCE FIXING TAX RATE; MAKING ANNUAL APPROPRIATIONS.

The Town Clerk-Treasurer shall present the report of budget estimates to the Town Council under I.C. 6-1.1-17. After reviewing the report, the Town Council shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other town purposes during the ensuing budget year. The Town Council, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the Clerk-Treasurer. The Town Council shall promptly act on the appropriation ordinance.

(I.C. 36-5-3-4)

§ 33.22 INCREASE OR DECREASE OF APPROPRIATIONS AFTER APPROVAL OF ORDINANCE.

After the passage of the appropriation ordinance, the Town Council may make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under I.C. 6-1.1-17. The Town Council may, by ordinance, decrease any appropriation set by ordinance.

(I.C. 36-5-3-5)

FUNDS; FEES

§ 33.35 CONTROL FUND FOR RESTRICTED DONATIONS.

(A) A Control Fund is hereby established for all restricted donations received by the town.

(B) Separate, individual accounts will be established to account for each restricted donation and each type of restricted donation. Activities of, or related to, the separate accounts - receipts, disbursements, balances - will be accounted for, reported, and reflected as part of the Control Fund.

(C) Income from investments on restricted donations should be receipted into the same account in which the principal of the donation has been receipted, provided it is to be used for the same purpose as the principal.

(D) Payments may be made, without appropriation and at any time, from the separate accounts of the Control Fund for the purpose or purposes specified by the respective donor. Accounts payable vouchers must be filed and approved in the regular legal manner before payments are made.

(Ord. 2013-12, passed 12-2-2013)

§ 33.36 LAW ENFORCEMENT EQUIPMENT FUND.

(A) A new fund is created for the town, being the Law Enforcement Equipment Fund, which shall be maintained by the Clerk-Treasurer.

(B) Funds received from local ordinance enforcement from the county shall be deposited and maintained in said account.

(C) Upon approval of the Town Council funds may be expended by the Town Marshal/Town Police Department for the limited purpose equipment for law enforcement without the necessity of budget and/or

appropriation normally a part of the budget process.

(Ord. 2003-3, passed 9- -2003)

§ 33.37 FEES AND CHARGES FOR COPIES OF PUBLIC RECORDS.

The town and its departments and agencies, for public records copied in response to requests made under the state's Access to Public Records Law, shall charge \$0.10 per page for copies that are not color copies or \$0.25 per page for color copies. The town shall require charges for copying to be paid in advance.

(Ord. 3-2013, passed 6-3-2013)

CHAPTER 34: ORDINANCE VIOLATIONS

Section

- 34.01 Establishment
- 34.02 Violations Clerk designated
- 34.03 Duties of Clerk
- 34.04 Schedule of fines
- 34.05 Right to trial
- 34.06 Denial; exercise of the right to trial
- 34.07 Failure to appear or to satisfy assessed civil penalty; report; prosecution
- 34.08 Court costs fee; admitted violations
- 34.09 Disposition of civil penalties and costs collected

§ 34.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.

(I.C. 33-36-2-1)

§ 34.02 VIOLATIONS CLERK DESIGNATED.

(A) Upon the creation of a Bureau, the Town Council shall provide for the appointment of a Violations Clerk, who may be the Clerk-Treasurer of the municipality, to be the administrator of the Bureau.

(I.C. 33-36-2-1)

(B) If the Town Council does not establish an Ordinance Violations Bureau under § 34.01, the Clerk-Treasurer of the town is designated the Violations Clerk for purposes of this chapter.

(I.C. 33-36-2-2)

§ 34.03 DUTIES OF CLERK.

In ordinance violation cases, subject to the schedule prescribed under I.C. 33-36-3 by the Town Council, the Violations Clerk may accept the following:

- (A) Written appearances;
- (B) Waivers of trial;
- (C) Admissions of violations; and
- (D) Payment of civil penalties up to a specific dollar amount set forth in an ordinance adopted by the Town Council, but not more than \$250.

(I.C. 33-36-2-3)

§ 34.04 SCHEDULE OF FINES.

(A) Upon the appointment or designation of the Violations Clerk as provided by § 34.01, the Town Council shall designate, by ordinance or code, a schedule of ordinance and code provisions that are subject to admission of violation before the Violations Clerk and the amount of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(B) Civil penalties shall be paid to, receipted by, and accounted for by the Clerk under procedures provided for by the State Board of Accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the Town Council.

(I.C. 33-36-3-1)

§ 34.05 RIGHT TO TRIAL.

A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk. Upon an admission, the Clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under § 34.04.

(I.C. 33-36-3-2)

§ 34.06 DENIAL; EXERCISE OF THE RIGHT TO TRIAL.

If a person charged with a violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Clerk.

(I.C. 33-36-3-3)

§ 34.07 FAILURE TO APPEAR OR TO SATISFY ASSESSED CIVIL PENALTY; REPORT; PROSECUTION.

(A) If a person does any of the following, then the Violations Clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the town:

- (1) Denies an ordinance or code violation under this chapter;
- (2) Fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation; or
- (3) Fails to deny or admit the violation under this chapter.

(B) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

(I.C. 33-36-3-5)

§ 34.08 COURT COSTS FEE; ADMITTED VIOLATIONS.

(A) An ordinance violation admitted under this chapter does not constitute a judgment for the purposes of I.C. 33-37. An ordinance violation costs fee may not be collected from the defendant under I.C. 33-37-4.

(B) An ordinance violation processed under this chapter may not be considered for the purposes of I.C. 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

(I.C. 33-36-3-6)

§ 34.09 DISPOSITION OF CIVIL PENALTIES AND COSTS COLLECTED.

All sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the town as provided by law.

CHAPTER 35: TOWN POLICIES

Section

General Policies

- 35.01 Uniform internal control standards for state political subdivisions
- 35.02 Contracting with a unit
- 35.03 Nepotism

Tort Claims Against Town

- 35.15 Clerk-Treasurer to receive notice
- 35.16 Form and service of notice

Material Losses

- 35.30 Definitions
- 35.31 Duty to report
- 35.32 Applicability and responsibility

GENERAL POLICIES

§ 35.01 UNIFORM INTERNAL CONTROL STANDARDS FOR STATE POLITICAL SUBDIVISIONS.

The internal control standards developed by the State Board of Accounts and published as the *Uniform Internal Control Standards for Indiana Political Subdivisions* are hereby adopted as the minimum level of internal control standards for the town.

(Ord. 2016-2, passed 7-6-2016)

§ 35.02 CONTRACTING WITH A UNIT.

(A) All of the requirements set forth in I.C. 36-1-21 are hereby adopted and implemented as local policy of the town.

(B) All elected and appointed officials and employees of the town are hereby directed to cooperate fully in the implementation of and comply with the policies created by this section.

(C) Failure by a town employee to cooperate with the implementation of and comply with the policies created by this section may result in discipline, including termination, or a transfer from the direct line of

supervision or other curative action.

(D) An elected or appointed official of the town who fails to cooperate with the implementation of and comply with the policies created by this section may be subject to action allowed by law.

(E) In addition to all other requirements of I.C. 36-1-21, each elected officer of the town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter and submit that certification to the Town Council President not later than December 31 of each year.

(F) The polices created by this section are hereby directed to be implemented by the following actions: posting a copy of the ordinance codified herein in its entirety in at least one location in town where other employee notices are posted; and providing a copy of the ordinance codified herein to town elected and appointed officials.

(G) A copy of I.C. 36-1-21 is on file in the office of the Clerk-Treasurer.
(Ord. 2012-4, passed 6-4-2012)

§ 35.03 NEPOTISM.

(A) All of the requirements set forth in I.C. 36-1-20.2 are hereby adopted and implemented as local policy of the town.

(B) All elected and appointed officials and employees of the town are hereby directed to cooperate fully in the implementation of and comply with the policies created by this section.

(C) Failure by a town employee to cooperate with the implementation of and comply with the policies created by this section may result in discipline, including termination, or a transfer from the direct line of supervision or other curative action.

(D) An elected or appointed official of the town who fails to cooperate with the implementation of and comply with the policies created by this section may be subject to action allowed by law.

(E) In addition to all other requirements of I.C. 36-1-20.2, each elected officer of the town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter and submit that certification to the Town Council President not later than December 31 of each year.

(F) The polices created by this section are hereby directed to be implemented by the following actions: posting a copy of the ordinance codified herein in its entirety in at least one location in town where other employee notices are posted; and providing a copy of the ordinance codified herein to town elected and appointed officials.

(G) A copy of I.C. 36-1-20.2 is on file in the office of the Clerk-Treasurer.
(Ord. 2012-3, passed 6-4-2012)

TORT CLAIMS AGAINST TOWN

§ 35.15 CLERK-TREASURER TO RECEIVE NOTICE.

The Town Clerk-Treasurer is hereby designated as the town official to receive notice of a tort claim under I.C. 34-13-3-1 et seq.

§ 35.16 FORM AND SERVICE OF NOTICE.

(A) The notice of a tort claim against the town must be in writing and must be delivered in person or by registered or certified mail.

(I.C. 34-13-3-12)

(B) The notice must comply with the provisions of I.C. 34-13-3-1 et seq.

MATERIAL LOSSES

§ 35.30 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

IRREGULAR VARIANCE. A reduction in a cash or fund balance or actual cash on hand that cannot be accounted for or explained in the normal course of business.

MATERIAL. For purposes of this subchapter and the reporting requirements imposed by I.C. 5-11-1-27:

- (1) A variance, loss, or shortage of cash exceeding \$100;
- (2) Two or more variances, losses, or shortages of cash, from the same fund or account, or related to the same person or department, occurring within a 60-day period, and exceeding, in the aggregate, \$100;
- (3) A loss of town property valued in excess of \$100; and/or

(4) The theft or suspected theft, by town personnel, of cash or any other town property, irrespective of the value or amount.

PUBLIC OFFICER. Any person elected or appointed to any office of the state or any political subdivision and includes an officer of all boards, commissions, departments, institutions, and other bodies established by law to function as a part of the government of the state or political subdivision that are supported wholly or partly by appropriations of money made from the treasury of the state or political subdivision or that are supported wholly or partly by taxes or fees.

(I.C. 5-13-4-2)

THEFT. The same as it is defined under I.C. 35-43-4-2.

TOWN PERSONNEL. All elected and appointed officials and all employees of the town.

(Ord. 2016-3, passed 7-6-2016)

§ 35.31 DUTY TO REPORT.

(A) The town, in addition to all other reporting requirements that it or town personnel may have pursuant to relevant provisions of I.C. 5-11-1-27, or otherwise, shall immediately report to the State Board of Accounts all irregular variances, losses, or shortages, deemed to be material as defined herein, and all incidents of theft.

(B) Additionally, I.C. 5-11-1-27(1) requires public officers who have actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office, including information obtained as a result of a police report, an internal audit finding, or another source indicating that a misappropriation has occurred, to immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney serving in the area governed by the political subdivision.

(Ord. 2016-3, passed 7-6-2016)

§ 35.32 APPLICABILITY AND RESPONSIBILITY.

The Town Council shall implement and oversee the policies and procedures as set forth in this chapter. This subchapter and its separate rules, policies, and duties, as imposed, shall apply to and be enforced by and against all town personnel in strict compliance with its terms.

(Ord. 2016-3, passed 7-6-2016)

Chapter

50. GENERAL PROVISIONS

51. SEWER

52. WATER

CHAPTER 50: GENERAL PROVISIONS

Section

Utility Billing and Collection

- 50.01 Billing period
- 50.02 Combined water and sewer bill
- 50.03 Due date
- 50.04 Past due bills; delinquent customers
- 50.05 Disputed bill
- 50.06 Town Council hearing to stop discontinuation of service
- 50.07 Payment application
- 50.08 Required payment to avoid discontinuation of service
- 50.09 Required payment to reestablish water service after discontinuation
- 50.10 Disconnection date
- 50.11 Town employees have no discretion to deviate from policies

UTILITY BILLING AND COLLECTION

§ 50.01 BILLING PERIOD.

Customers of the town's water utility and sewage works will be billed on or about the first day of each

month for the immediately preceding billing cycle. A **BILLING CYCLE**, for purposes of this subchapter, shall mean, generally, the period beginning on the first day and ending on the last day of each month. (Ord. 2017-2, passed 3-6-2017)

§ 50.02 COMBINED WATER AND SEWER BILL.

Charges assessed against customers of the town's water utility and sewage works will be billed on one combined bill (the combined water and sewer bill). Each customer's combined water and sewer bill will itemize and assess the current and past due amounts owed for water, stormwater, sewer, and fire protection services, penalties, and applicable disconnect and reconnect charges.

(Ord. 2017-2, passed 3-6-2017)

§ 50.03 DUE DATE.

Charges assessed against customers of the town's water utility and sewage works for each billing cycle will be due on the fifteenth day of the following month. Prior to the sixteenth day of each month, charges assessed against customers of the town's water utility and sewage works for the immediately preceding billing cycle shall be considered current charges. On the sixteenth day of each month (the past due date), unpaid charges assessed against customers of the town's water utility and sewage works, for the immediately preceding billing cycle, shall become past due charges against which shall be assessed, automatically and without exception or waiver, a 10% past due penalty.

(Ord. 2017-2, passed 3-6-2017)

§ 50.04 PAST DUE BILLS; DELINQUENT CUSTOMERS.

(A) The amount of the past due charges, the 10% penalty, and a reasonable attorney's fee may be recovered by the town in a civil action.

(I.C. 36-9-23-31)

(B) Customers of the town's water utility and sewage works who fail to pay, in full, their past due charges, and applicable past due penalties, within 30 days after they become past due, shall be considered delinquent customers and be subject to discontinuation of their water service. For purposes of this subchapter and the procedures to be followed by the town's water utility and sewage works, the date each month that is 31 days after the date on which a customer's utility rates and charges became past due shall be defined as the **DISCONNECTION DATE**.

(C) Prior to discontinuation of a delinquent customer's water service for nonpayment of utility rates and charges, and applicable past due penalties, the town, in a separate notice, shall notify that delinquent customer:

- (1) Of the delinquent amount due, together with any penalty;
- (2) The service continuation amount, as defined below, that must be paid to avoid discontinuation of water service;
- (3) The town intends to discontinue water service if the customer continues not to pay the past due charges and all penalties; and
- (4) The procedure for resolving a disputed bill.

(Ord. 2017-2, passed 3-6-2017)

§ 50.05 DISPUTED BILL.

With regard to the procedure for resolving a disputed bill, each notice shall include the following statement:

“You may dispute the correctness of your water and sewer charges by meeting informally with the Town's utility billing clerk at anytime during regular business hours. You have the right, in person, by attorney, or other representative, to contest the disconnection of your water service for nonpayment of water and/or sewer charges at a hearing held for that purpose. You must request a hearing by delivering to the Morgantown Town Hall, 120 W. Washington Street, Morgantown, IN, 46160, within seven (7) days of the date of this notice, a written hearing request. You then will be notified of the date and time. Hearing request forms are available at Town Hall.”

(Ord. 2017-2, passed 3-6-2017)

§ 50.06 TOWN COUNCIL HEARING TO STOP DISCONTINUATION OF SERVICE.

(A) Upon a customer's written request, the Town Council, or its duly appointed and authorized hearing officer, will hold a hearing at which the customer in person, by attorney, or other representative, may contest the discontinuation of water service for nonpayment of that customer's utility charges.

(B) The Town Council, or its duly appointed and authorized hearing officer, will consider challenges by delinquent customers of the discontinuation of their water service for nonpayment of utility rates and charges by applying criteria adopted by the Town Council, from time to time, to the unique facts and circumstances presented by each customer and shall be authorized to cancel or postpone orders to discontinue water service.

(C) All members of the Town Council are hereby appointed and authorized as hearing officers to consider challenges by delinquent sewage work's customers of the discontinuation of their water service for nonpayment of sewer rates and charges.

(Ord. 2017-2, passed 3-6-2017)

§ 50.07 PAYMENT APPLICATION.

All payments received from customers of the town's water utility and sewage works will be applied to and posted in each customer's account in the following order:

- (A) Penalties assessed on past due water charges;
- (B) Past due water charges;
- (C) Current water charges;
- (D) Penalties assessed on past due stormwater charges;
- (E) Past due stormwater charges;
- (F) Current stormwater charges;
- (G) Penalties assessed on past due fire protection charges;
- (H) Past due fire protection charges;
- (I) Current fire protection charges;
- (J) Penalties assessed on past due sewer charges;
- (K) Past due sewer charges; and
- (L) Current sewer charges.

(Ord. 2017-2, passed 3-6-2017)

§ 50.08 REQUIRED PAYMENT TO AVOID DISCONTINUATION OF SERVICE.

A delinquent customer, in order to avoid discontinuation of water service for nonpayment of past due charges and/or penalties, will be required to pay, prior to the disconnection date, an amount that is equal to the sum of the following:

- (A) Penalties assessed on past due water charges;
- (B) Past due water charges;
- (C) Penalties assessed on past due stormwater charges;
- (D) Past due stormwater charges;
- (E) Penalties assessed on past due fire protection charges;
- (F) Past due fire protection charges;
- (G) Penalties assessed on past due sewer charges; and
- (H) Past due sewer charges (the service continuation amount).

(Ord. 2017-2, passed 3-6-2017)

§ 50.09 REQUIRED PAYMENT TO REESTABLISH WATER SERVICE AFTER DISCONTINUATION.

A delinquent customer whose water service is discontinued for nonpayment of past due charges and/or penalties, in order to reestablish water service, will be required to pay to the town the service continuation amount, plus a disconnection fee and reconnection fee, in amounts as set by the Town Council, from time to time.

(Ord. 2017-2, passed 3-6-2017)

§ 50.10 DISCONNECTION DATE.

The town's utility billing clerk, on the disconnection date each month or, if a disconnection date falls on a day when the town is not open for business, the next day on which the town is open for business, shall compile and deliver to the town's Public Works Operation Manager a list of all delinquent customers (the

disconnect list). The town's Public Works Operation Manager shall then, as soon as is practicable and without delay or preference, effect the discontinuation of water service to all delinquent customers. If the town's utility billing clerk receives from a delinquent customer, on or after the disconnection date but prior to the physical disconnection of that delinquent customer's water service, in the form of cash, money order, or cashier's check, all past due charges, the town's utility billing clerk may attempt to contact the town's Public Works Operation Manager and have that delinquent customer removed from the disconnect list. Neither the town's Public Works Operation Manager nor anyone other than the town's utility billing clerk may accept payment of charges owed to the town's water utility and/or sewage works. Payment by a delinquent customer, prior to the physical disconnection of that delinquent customer's water service, of all past due charges may not prevent water service from being discontinued or the imposition of applicable disconnection and reconnection fees.

(Ord. 2017-2, passed 3-6-2017)

§ 50.11 TOWN EMPLOYEES HAVE NO DISCRETION TO DEVIATE FROM POLICIES.

No employee of the town has any discretion to deviate from the policies and procedures as set forth in this subchapter.

(Ord. 2017-2, passed 3-6-2017)

CHAPTER 51: SEWER

Section

General Provisions

- 51.01 Definitions
- 51.02 Objectionable waste
- 51.03 Private sewage disposal system
- 51.04 Permits
- 51.05 Discharge
- 51.06 Inspector right of entry
- 51.07 Effective date

Billing and Rates

- 51.20 Rates and charges of the water utility and sewage works
- 51.21 Late payment penalty
- 51.22 Yard sprinkling and pool credit against sewer fees

Stormwater Management

- 51.35 Fees
- 51.36 Collection of fees
- 51.37 Lien on property

- 51.99 Penalty

GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

B.O.D. (denoting **BIOCHEMICAL OXYGEN DEMAND**). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million by weight.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial processes as distinguished from sanitary

sewage.

INSPECTOR. The person or persons duly authorized by the town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sewer system.

MAY. The action referred to is permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation, or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwater as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. The action referred to is mandatory.

STORM SEWER or **STORM DRAIN.** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUPERINTENDENT. The Superintendent of the municipal sewage works of the town, or his or her authorized deputy, agent, or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.
(Ord. 3-1963, passed 7-10-1963)

§ 51.02 OBJECTIONABLE WASTE.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the town, or in any area under the jurisdiction of said town, any human or animal excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within said town, or in any area under the jurisdiction of said town, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facilities intended or used for the disposal of sewage.

(D) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the town, and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sewer or combined sewer of the town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

(Ord. 3-1963, passed 7-10-1963) Penalty, see § 51.99

§ 51.03 PRIVATE SEWAGE DISPOSAL SYSTEM.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 51.02(D), the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the State Board of Health.

(B) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in § 51.02(D), a direct connection shall be made to the public sewer in compliance with

this subchapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned.

(C) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(D) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

(Ord. 3-1963, passed 7-10-1963) Penalty, see § 51.99

§ 51.04 PERMITS.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Clerk-Treasurer.

(B) There shall be two classes of building sewer permits: for residential and commercial service; and for service to establishments producing industrial waste. In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of \$250 for a residential building sewer permit and \$500 for a commercial or industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed.

(C) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by said installation.

(D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(E) Old building sewers may be used in connection with new buildings only when they are focused on examination and test by the said inspector to meet all requirements of this subchapter.

(F) The building sewer shall be cast iron soil pipe, ASTM specification or equal; vitrified clay sewer pipe, ASTM specification or equal; or other suitable material approved by the said inspector. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipes with leaded joints may be required by the said inspector where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the said inspector.

(G) The size and slope of the building sewers shall be subject to the approval of the said inspector, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-eighth inch per foot.

(H) Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(I) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer. No water-operated sewage ejector shall be used.

(J) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said inspector. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the inspector or his or her representative.

(K) (1) All joints and connections shall be made gas-tight and water-tight. Cast iron pipe joints shall be firmly packed with oakum or hemp filled with molten lead, Federal Specification QQ-L-156, not less than one inch deep. Lead shall be run in one pouring and calked tight. No paint, varnish, or other coatings shall be

permitted on the jointing material until after the joint has been tested and approved.

(2) All joints in vitrified clay pipe or between such pipe and metals shall be made with approved jointing material in accordance with the latest edition of Volume III, Plumbing Rules and Regulations of the Administrative Building Council of the state.

(3) Other jointing material and methods may be used only by approval of the said inspector.

(L) The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less and no properly located "Y" branch is available, the owner shall, at his or her expense, install a "Y" branch in the public sewer at the location specified by the said inspector. Where the public sewer is greater than 12 inches in diameter, and no properly located "Y" branch is available, a neat hole may be cut in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A 45-degree ell may be used to make such connection, with the spigot end out so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth neat joint shall be made, and the connection made secure and water-tight by encasement in concrete. Special fittings may be used for the connection only when approved by the said inspector.

(M) (1) The applicant for the building sewer permit shall notify the said inspector when the building sewer is ready for inspection and connection to the public sewer.

(2) The connection shall be made under the supervision of the said inspector or his or her representative.

(N) (1) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(2) Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Ord. 3-1963, passed 7-10-1963; Ord. 2007-4, passed 9- -2007) Penalty, see § 51.99

§ 51.05 DISCHARGE.

(A) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, sub-surface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

(B) (1) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the said Superintendent.

(2) Industrial cooling water or unpolluted process waters may be discharge upon approval of the said Superintendent, to a storm sewer, combined sewer, or natural outlet.

(C) Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters of wastes to any public sewer:

(1) Any liquid or vapor having a temperature higher than 150°F;

(2) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil, or grease;

(3) Any waste or water which may contain more than 25 parts per million, by weight, of salvable oils;

(4) Any gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid, or gas;

(5) Any garbage that has not been properly shredded;

(6) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

(7) Any waters or wastes having a pH lower than 5.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

(8) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(9) Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage disposal plant; and/or

(10) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(D) Grease, oil, and sand interceptors shall be provided when, in the opinion of the said inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight.

(E) Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(F) The admission into the public sewers of any waters or wastes having a biochemical oxygen demand greater than 400 parts per million by weight, containing more than 450 parts per million by weight of suspended solids, containing any quantity of substances having the characteristics described in division (C) above, or having an average daily flow greater than 2% of the average daily sewage flow of the town shall be subject to the review and approval of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 400 parts per million and the suspended solids to 450 parts per million by weight, reduce objectionable characteristics of constituents to within the maximum limits provided for in division (C) above, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the said Superintendent and of the State Board of Health, and no construction of such facilities shall be commenced until said approval is obtained in writing.

(G) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(H) When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(I) All measurements, tests, and analyses of the characteristics of waters and waste to which reference is made in divisions (E) and (F) above shall be determined in accordance with *Standard Methods for the Examination of Water and Sewage* and shall be determined at the control manhole provided for in division (H) above or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(J) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern. (Ord. 3-1963, passed 7-10-1963) Penalty, see § 51.99

§ 51.06 INSPECTOR RIGHT OF ENTRY.

The Superintendent, inspector, and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter upon all properties for inspection, observation, measurement, sampling, and testing in accordance with the provisions of this subchapter.

(Ord. 3-1963, passed 7-10-1963)

§ 51.07 EFFECTIVE DATE.

This subchapter shall be in full force and effect from and after its passage and publication as provided by law.

(Ord. 3-1963, passed 7-10-1963)

BILLING AND RATES

§ 51.20 RATES AND CHARGES OF THE WATER UTILITY AND SEWAGE WORKS.

(A) *Water rates.* Rates for water usage of persons or entities using water services provided by the town shall be in an amount determined as follows:

<i>Monthly Usage (Gallons)</i>	<i>Rate</i>
2,500	\$7.62
3,000	\$9.11
4,000	\$12.17
5,000	\$15.18
8,000	\$21.27
10,000	\$25.31

(B) *Sewer rates.* For use of and the service rendered by the sewage works, each parcel shall be charged in an amount based upon water usage, determined as follows:

<i>Monthly Metered Usage Rates</i>	<i>Rates per 1,000 Gallons</i>
2,500 gallons	\$11.08
5,000 gallons	\$4.86
5,000 gallons	\$4.55
20,000 gallons	\$3.94
40,000 gallons	\$3.42
50,000 gallons	\$2.91
125,000 gallons	\$2.22
Minimum charge per month	\$28.74

(C) *Connection charge.* Connection charges shall be as follows:

<i>Connection Size</i>	<i>Charge</i>
5/8 and 3/4-inch connection	\$250
All other connection sizes	Actual cost of the connection but not less than \$250

(D) *Miscellaneous charges.* There shall be other charges made for services provided as follows.

- (1) *Late fee.* A 10% fee shall be added to all accounts not paid by the due date.
- (2) *Returned check charges.* A fee of \$12.50 in addition to other charges that may apply (e.g., court costs, attorney fees, or costs of collection).
- (3) *Deposit.* A deposit of \$75 shall be required for all new accounts.
- (4) *Lien.* Any parcel occupied by rental tenants which is not paid shall be subject to a lien against the real estate for such unpaid charges.

(E) *Application of charges.* To the extent that service is provided to more than one unit which have only one meter, a minimum charge for water and sewer service shall be applied for each unit. A **UNIT** shall be a dwelling unit such as a mobile home, apartment, housekeeping room (which have separate kitchen facilities), or place of business.

(Ord. 5-1996, passed 12-14-1996; Ord. 2013-14, passed 12-2-2013; Ord. 2018-3, passed 3-12-2018)

§ 51.21 LATE PAYMENT PENALTY.

The town will assess a late payment penalty of 10% of the amount of delinquent rates and charges. Rates and charges not received by the town within 15 days after they become due are delinquent. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the town in a civil action in the name of the town.

(Ord. 4-2013, passed 7-1-2013)

§ 51.22 YARD SPRINKLING AND POOL CREDIT AGAINST SEWER FEES.

(A) Water that is used to irrigate or sprinkle yards or to fill swimming pools is not discharged into the town’s sanitary sewer system.

(B) Accordingly, the town makes available to customers of its sewage works the following credits.

(1) *Yard sprinkling credit.*

(a) The current owner or occupant of real estate served by the town’s sewage works must apply for a sprinkling credit prior to May 1 of the calendar year for which the credit is sought. If application for the sprinkling credit is not made prior to May 1, the credit will not apply until the following calendar year. Applications for subsequent years will not be required unless ownership or possession of the property changes.

(b) For those customers who apply for a sprinkling credit (eligible customers), the monthly water usage recorded for their property for the prior months of October through April will be averaged (the winter average). For eligible customers who have not owned or occupied their property beginning with the prior October 1, the winter average shall be deemed to be 6,000 gallons for the following year.

(c) Then, for the months of May through September (bills for which are printed and mailed in June through October), eligible customers will be billed for water usage equal to their winter average plus 2,000 gallons. This amendment was effective as of May 1, 2008.

(d) New or existing sewage works customers may apply for a sod credit against their monthly sewer charge. The sod credit shall be for a maximum of 60 days or two billing cycles. To be eligible for the sod credit, customers must apply in writing, and the customer must state he or she is installing new sod for a new home or is replacing his or her entire yard with new sod. Credit can be made for usage in excess of 9,000 gallons during a 60-day period or two billing cycles, unless customer history supports a normal usage greater than 9,000 gallons during such billing cycle, in which event, no credit shall be given.

(2) *Pool credit.* Customers shall make yearly written application for a pool credit. Such application shall include the dimensions of the pool to be filled and the month in which the pool will be filled. The customer’s average usage shall be checked to verify that the pool was actually filled and the calculated amount of water was used. If not, the pool credit is disallowed.

(Ord. 2012-5, passed 8-8-2012)

STORMWATER MANAGEMENT

§ 51.35 FEES.

(A) Stormwater management user fees shall be imposed on each and every lot and parcel of real property within the town which shall be assessed against the owner thereof who shall be considered the stormwater management customer as follows:

<i>Type</i>	<i>Annual User Fee Rates</i>
Residential	\$36
Non-residential	\$72

(B) The rates as set forth above, are hereby deemed to be just and equitable fees for stormwater management services rendered by the town’s sewage works and just and equitable fees required to maintain the stormwater management system in sound, physical, and financial condition as necessary to render adequate and efficient service.

(Ord. 2013-13, passed 12-2-2013)

§ 51.36 COLLECTION OF FEES.

User fees, as set forth above, shall be billed and collected monthly along with the established user fees of the town’s sewage works for the collection and treatment of wastewater and shall be billed at the rate of one-twelfth of the annual user fee for the various types of properties as set forth above.

(Ord. 2013-13, passed 12-2-2013)

§ 51.37 LIEN ON PROPERTY.

The stormwater management user fees shall become liens upon the property for which they are charged if not paid within 90 days after their date due. The town may certify the lien of the town’s sewage works to the

County Auditor who shall place that lien on the tax duplicate of the county with interest and penalties allowed by law, to be collected as other taxes are collected.

(Ord. 2013-13, passed 12-2-2013)

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(2) (a) Any person found to be violating any provision of §§ 51.01 through 51.07 except as stated in division (B)(1) above shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit said in division (B)(2)(a) above shall be assessed in an amount not to exceed \$500 for each violation. Each day in which any violation shall continue shall be deemed to be a separate offense. Further, in the event that the violator fails to pay the fee for violation, he or she shall be subject to suit by the town and in the event that the town prevails costs and expenses including reasonable attorney fees in pursuing said violation fees and/or injunction to stop violation as has then been determined.

(c) Any person violating any of the provisions of §§ 51.01 through 51.07 shall become liable to the town for any expense, loss, or damage occasioned by the town by reason of such violation.

(Ord. 3-1963, passed 7-10-1963; Ord. 2007-4, passed 9- -2007)

CHAPTER 52: WATER

Section

Rates and Charges

- 52.01 Rates and charges
- 52.02 Town Council findings
- 52.03 Late penalty
- 52.04 Collection of rates and charges

RATES AND CHARGES

§ 52.01 RATES AND CHARGES.

The following schedule of rates and charges for the town’s water utility are hereby approved and adopted:

<i>Metered Rate</i>	
<i>Per 1,000 Gallons Per Month</i>	<i>Charge</i>
First 2,500	\$12.16
Next 2,501-5,000	\$4.72
Next 5,001-10,000	\$3.96
Over 10,000	\$2.44

<i>Minimum Charge Per Month</i>	
All meters	\$30.40

<i>Hydrant Rental</i>	
Monthly fee per hydrant per customer	\$6.61

<i>Connection Charge</i>

All new connections	\$350
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<i>Returned Check Charge</i>	
Per check on all returned checks	\$25

<i>Deposit</i>	
All new water customers	\$75

<i>Reconnection Fee</i>	
Reconnection after disconnection	\$50

<i>Late Charge Penalty</i>	
All bills 30 days or more delinquent	10% of bill

(Ord. 2015-9, passed 11-18-2015)

§ 52.02 TOWN COUNCIL FINDINGS.

The Town Council finds that the rates and charges, as adopted, are nondiscriminatory, reasonable, equitable, and just, and are necessary to produce sufficient revenue to:

- (A) Pay all the legal and other necessary expenses incident to the operation of the utility including:
 - (1) Maintenance costs;
 - (2) Operating charges;
 - (3) Upkeep;
 - (4) Repairs;
 - (5) Depreciation;
 - (6) Interest charges on bonds or other obligations, including leases; and
 - (7) Costs associated with the acquisition of utility property under I.C. 8-1.5-2.
- (B) Provide a sinking fund for the liquidation of bonds or other obligations, including leases;
- (C) Provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds, or obligations, or the maximum annual lease rentals;
- (D) Provide adequate money for working capital; and
- (E) Provide adequate money for making extensions and replacements to the extent not provided for through depreciation.

(Ord. 2015-9, passed 11-18-2015)

§ 52.03 LATE PENALTY.

The town will assess a late payment penalty of 10% of the amount of delinquent rates and charges. Rates and charges not received by the town within 15 days after they become due are delinquent. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the town in a civil action in the name of the town. Minimum monthly charges will not be abated or adjusted for seasonal or temporary vacancy of the property served.

(Ord. 2015-9, passed 11-18-2015)

§ 52.04 COLLECTION OF RATES AND CHARGES.

The Council hereby authorizes and directs the appropriate officials and representatives of the town to take all necessary actions to implement, bill, and collect the rates and charges, approved and adopted herein, as soon as is practicable, but no later than the January 2016 billing cycle.

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. PARKING REGULATIONS
- 73. RECREATIONAL VEHICLES
- 74. TRAFFIC SCHEDULES
- 75. PARKING SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

70.01 Definitions

Traffic Control Devices

70.15 Establishment and maintenance of traffic control devices

70.16 Obedience to signals

70.17 Interference with signals

70.18 Unauthorized signals or markings

70.99 Penalty

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

For the purpose of this traffic code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED EMERGENCY VEHICLE. The following vehicles:

- (1) Fire Department vehicles;
- (2) Police Department vehicles;
- (3) Ambulances;
- (4) Emergency vehicles operated by or for hospitals or health and hospital corporations under I.C. 16-22-8;
- (5) Vehicles designated as emergency vehicles by the State Department of Transportation under I.C. 9-21-20-1;
- (6) Motor vehicles that, subject to I.C. 9-21-20-2, are approved by the State Emergency Medical Services Commission, that are:
 - (a) Ambulances that are owned by persons, firms, limited liability companies, or corporations other than hospitals; or
 - (b) Not ambulances and that provide emergency medical services, including extrication and rescue services as defined in I.C. 16-18-2-110.
- (7) Vehicles of the Department of Correction that, subject to I.C. 9-21-20-3, are:
 - (a) Designated by the Department of Correction as emergency vehicles; and
 - (b) Responding to an emergency.

(I.C. 9-13-2-6)

DRIVER. A person who drives or is in actual physical control of a vehicle.

(I.C. 9-13-2-47)

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing, two nontandem-wheeled device that is designed to transport only one person and that has the following:

- (1) An electric propulsion system with average power of 750 watts or one horsepower; and
- (2) A maximum speed of less than 20 mph when operated on a paved level surface, when powered solely by the propulsion system referred to in division (1) above, and when operated by an operator weighing 170 pounds.

(I.C. 9-13-2-49.3)

HIGHWAY or **STREET**. The entire width between the boundary lines of every publicly maintained way when any part of the way is open to the use of the public for purposes of vehicular travel. The term includes an alley.

(I.C. 9-13-2-73)

INTERSECTION.

(1) The area embraced within:

(a) The prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two highways that join at, or approximately at, right angles; or

(b) The area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways at least 30 feet apart, every crossing of each roadway of the divided highway by an intersecting highway is regarded as a separate **INTERSECTION**. If the intersecting highway also includes two roadways at least 30 feet apart, every crossing of two roadways of the intersecting highway is regarded as a separate **INTERSECTION**.

(I.C. 9-13-2-84)

MOTOR VEHICLE.

(1) Except as otherwise provided in this definition, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device as those terms are defined in I.C. 9-13-2-56, 9-13-2-77, and this section.

(2) **MOTOR VEHICLE** also means:

(a) A vehicle that is self-propelled; or

(b) A vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(I.C. 9-13-2-105(a) and (b))

MOTORCYCLE.

(1) A motor vehicle with motive power that:

(a) Has a seat or saddle for the use of the rider;

(b) Is designed to travel on not more than three wheels in contact with the ground; and

(c) Satisfies the operational and equipment specifications described in 49 C.F.R. part 571 and I.C. 9-19.

(2) The term includes an auticycle, but does not include a farm tractor or a motor driven cycle.

(I.C. 9-13-2-108)

OPERATOR. When used in reference to a vehicle, means a person, other than a chauffeur or a public passenger chauffeur, who:

(1) Drives or operates a vehicle upon a highway; or

(2) Is exercising control over or steering a motor vehicle being towed by another vehicle.

(I.C. 9-13-2-118)

OWNER. When used in reference to a motor vehicle:

(1) A person who holds the legal title of a motor vehicle; or

(2) If a motor vehicle is the subject of an agreement for the conditional sale or lease vested in the conditional vendee or lessee, or in the event that the mortgagor, with the right of purchase upon the performance of the conditions stated in the agreement and with an immediate right of possession of a vehicle, is entitled to possession, the conditional vendee or lessee or mortgagor.

(I.C. 9-13-2-121(a))

RIGHT-OF-WAY. The privilege of the immediate use of a highway.

(I.C. 9-13-2-155)

ROADWAY.

(1) Except as provided in division (2) below, that part of a highway improved, designed, or ordinarily used for vehicular travel.

(2) As used in I.C. 9-21-12-13, the part of a highway that is improved, designed, or ordinarily used for vehicular travel. The term does not include the sidewalk, berm, or shoulder, even if the sidewalk, berm, or shoulder is used by persons riding bicycles or other human powered vehicles.

(I.C. 9-13-2-157)

STREET. See **HIGHWAY**.

THROUGH HIGHWAY. A highway or portion of a highway at the entrance to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on the **THROUGH HIGHWAY**, in obedience to either a stop sign or a yield sign.

(I.C. 9-13-2-178)

VEHICLE. A device in, upon, or by which a person or property is or may be transported or drawn upon a highway.

(I.C. 9-13-2-196(a))

TRAFFIC CONTROL DEVICES

§ 70.15 ESTABLISHMENT AND MAINTENANCE OF TRAFFIC CONTROL DEVICES.

The town may establish and maintain official traffic control devices necessary within the town. All traffic control devices, including signs, shall be employed to indicate one particular warning or regulation, shall be uniform, and as far as possible shall be placed uniformly. All traffic control devices and signs shall conform to required state specifications.

§ 70.16 OBEDIENCE TO SIGNALS.

(A) It shall be unlawful for the driver of any vehicle to disobey the signal of any official traffic control device placed in accordance with the provisions of this traffic code or of a traffic barrier or sign erected by any of the public departments or public utilities of the town, or any electric signal, gate, or watchman at railroad crossings, unless otherwise directed by a police officer. However, the type and the right to or necessity for the barrier or sign must be approved by the town.

(B) The sign, signal, marking, or barrier shall have the same authority as the personal direction of a police officer.

Penalty, see § 70.99

§ 70.17 INTERFERENCE WITH SIGNALS.

It shall be unlawful for any person without authority to attempt to or in fact alter, deface, injure, knock down, or remove any official control device or any railroad sign or signal, or any inscription, shield, or insignia thereon, or any part thereof.

Penalty see § 70.99

§ 70.18 UNAUTHORIZED SIGNALS OR MARKINGS.

(A) It shall be unlawful for any person to place, maintain, or display on or in view of any street any unauthorized sign, signal, marking, or device which purports to be, is an imitation of, or resembles an official traffic device, railroad sign, or signal which attempts or purports to direct the movement of traffic, or which conceals or hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal. No person shall place or maintain, nor shall any public authority permit on any street, any traffic sign or signal containing any commercial advertising. Nothing in this section shall be construed as restricting any public department or public utility of the town in any emergency or temporarily from marking or erecting any traffic barrier or sign whose placing has been approved by the town.

(B) Every such prohibited sign, signal, or marking is declared to be a public nuisance and the town is empowered forthwith to remove it or cause it to be removed.

Penalty, see § 70.99

§ 70.99 PENALTY.

Any person, firm, or corporation who violates any provision of this traffic code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Trucks prohibited on certain streets
- 71.02 Stop intersections
- 71.03 One-way streets
- 71.04 Speed limits

Cruising

- 71.15 Definitions
- 71.16 Cruising prohibited
- 71.17 Posting of signs

- 71.99 Penalty

Cross-reference:

Abandoned vehicles, see Ch. 90

Statutory references:

Authority to enact local traffic regulations, see I.C. 9-21-1-3

Authority to lower local speed limits, see I.C. 9-21-5-6

GENERAL PROVISIONS

§ 71.01 TRUCKS PROHIBITED ON CERTAIN STREETS.

(A) No trucks, other than pickup trucks and passenger trucks and vans, shall be allowed to operate on any posted town streets unless they must use the particular street in question for the purpose of local pickup or delivery.

(B) Posted streets are those which have signs on them indicating that their use by through trucks is prohibited.

Penalty, see § 71.99

§ 71.02 STOP INTERSECTIONS.

(A) The town may designate intersections as stop intersections and require all vehicles to stop at one or more entrances to the intersections.

(B) The town shall post signs at designated intersections, giving notice of the designation as a stop intersection.

(C) It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 71.99

§ 71.03 ONE-WAY STREETS.

(A) The town may designate streets or highways as one-way streets or highways, and may require that all vehicles operated on the street or highway be moved in one specific direction.

(B) The town shall post signs at the entrance to the street or part of the street that is affected, giving notice of the designation as a one-way street.

(C) It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 71.99

§ 71.04 SPEED LIMITS.

Except for specially designated and marked areas such as school zones, parks, and worksites, the maximum speed limit for all streets located within the annexed territory of the town, that are not a part of the state highway system, exclusive of alleys, shall be 25 mph. The maximum speed limit for all alleys located within the annexed territory of the town shall be 15 mph.

(Ord. 2015-6, passed 8-3-2015) Penalty, see § 71.99

CRUISING

§ 71.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONGESTED TRAFFIC.

(1) Traffic on any public street, alley, or highway which is delaying to the point that:

(a) Motor vehicles cannot move through a 100-yard approach corridor to an intersection controlled by a traffic light within two complete green-light cycles, where the delay in forward movement is due to the

position of other motor vehicles;

(b) Motor vehicles cannot move through a 100-yard approach corridor to an intersection controlled by a traffic light, stop sign, or yield sign within a five-minute period of time, where the delay in forward movement is due to the position of other motor vehicles; or

(c) Motor vehicles cannot readily move forward on portions of public streets, alleys, or highways between intersections because traffic speed is slowed to less than five mph, and the delay in movement is due to the position of other motor vehicles.

(2) The determination that a street, alley, or highway is **CONGESTED** shall be made by the Town Marshal or ranking peace officer on duty within the affected area.

CRUISING. The repetitive driving of any motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point.

GREEN LIGHT CYCLE. The period commencing upon the switching of a traffic light from a red light to a green light through to the return of a red light.

PEACE OFFICER. The Town Marshal, his or her designee, any member of the Town Police Department, or other town, county, or state official designated to enforce this subchapter.

PROPERTY IN THE PROXIMITY OF ANY POSTED NO-CRUISING ZONE. Any property which is both visible from and located within 300 feet of any portion of a street, alley, or highway which is posted as a no-cruising zone pursuant to this subchapter.

TRAFFIC CONTROL POINT. A location along a public street, alley, or highway utilized by the Town Marshal or a peace officer on duty within the affected area as an observation point in order to monitor traffic conditions for potential violations of this chapter.

§ 71.16 CRUISING PROHIBITED.

(A) *Conduct prohibited.* It shall be unlawful to engage in the activity known as cruising as defined in this subchapter on the public streets, alleys, or highways of the town in any area which has been posted as a no-cruising zone.

(B) *First violation.* Any person who violates division (A) above may be given a written warning stating that any subsequent passage past that traffic control point within the next succeeding four hours will be a violation of this subchapter.

(C) *Subsequent violations.* Any person who, after having received a written warning under division (B) above, subsequently drives past or is a passenger in a vehicle passing the same traffic control point within the next succeeding four hours shall be in violation of this subchapter.

Penalty, see § 71.99

§ 71.17 POSTING OF SIGNS.

This subchapter may be enforced in any area which has been posted as a no-cruising zone. "No Cruising" signs shall be posted at the beginning and the end of any public street, alley, or highway, or portion thereof, which is a no-cruising zone.

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 70.99 of this code of ordinances.

(B) Any person who operates a motor vehicle, including motorcycles, upon any street or alley within the town at a speed in excess of the maximum speed limits determined and declared by the Town Council commits a class C infraction.

(Ord. 2015-6, passed 8-3-2015)

CHAPTER 72: PARKING REGULATIONS

Section

- 72.01 No parking where posted
- 72.02 Limited parking
- 72.03 Other parking restrictions
- 72.04 Parking for persons with physical disability

- 72.99 Penalty

Cross-reference:

Abandoned vehicles, see Ch. 90

Statutory reference:

Authority to enact local parking regulations, see I.C. 9-21-1-3

§ 72.01 NO PARKING WHERE POSTED.

No person shall stop, stand, or park a vehicle upon the public streets of the town at any place where official signs or where appropriate devices, marks, or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit those acts.

Penalty, see § 72.99

§ 72.02 LIMITED PARKING.

No person shall stop, stand, or park a vehicle upon the public streets of the town where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Penalty, see § 72.99

§ 72.03 OTHER PARKING RESTRICTIONS.

The Town Council may order the placing of signs, devices, or marks, or the painting of streets or curbs, prohibiting or restricting the stopping, standing, or parking of vehicles on any street where, in its opinion, the stopping, standing, or parking is dangerous to those using the highway, or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. The signs, devices, marks, or painting shall be official signs, devices, marks, or painting; and no person shall stop, stand, or park any vehicle in violation of the restrictions thereon or as indicated thereby.

Penalty, see § 72.99

§ 72.04 PARKING FOR PERSONS WITH PHYSICAL DISABILITY.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PERSON WITH A PHYSICAL DISABILITY. Any person who has been issued a placard or special registration plate or decal for a motor vehicle by the State Bureau of Motor Vehicles under I.C. 9-14-5, 9-18-18, 9-18-22, or the laws of another state.

(B) *Parking prohibited.*

(1) It shall be unlawful for any person to park a motor vehicle, motorcycle, moped, bicycle, or other vehicle of any nature, which does not have displayed a placard for a person with a physical disability issued under the laws of this state or the laws of another state, in a parking space reserved for a vehicle of a person with a physical disability.

(2) It shall be unlawful for any person to knowingly park in a parking space reserved for a person with a physical disability while displaying a placard to which neither the person nor the person's passenger is entitled.

(C) *Violation.* If any vehicle is parked unlawfully in violation of any of the provisions of this section, and the identity of the driver cannot be determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for the violation.

(D) *Towing.* In addition to any fines which may be given as a result of violations of this section, any vehicle which is parked in a manner in violation of this section may be towed to an area designated by the town at the owner's expense. The owner shall also be required to pay any and all storage fees resulting from this action.

Penalty, see § 72.99

Statutory reference:

Similar state law, see I.C. 5-16-9

§ 72.99 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$100. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

CHAPTER 73: RECREATIONAL VEHICLES

General Provisions

- 73.01 Definitions
- 73.02 Restricted use
- 73.03 Allowed uses
- 73.04 Exceptions

Toy Vehicles

- 73.15 Application
 - 73.16 Prohibitions
 - 73.17 Bicycle restrictions
 - 73.18 Business district restrictions; exception
 - 73.19 Business district defined
-
- 73.99 Penalty

GENERAL PROVISIONS

§ 73.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GOLF CART. A four-wheeled motor vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

OFF-ROAD VEHICLE.

- (1) A motor-driven vehicle capable of cross-country travel:
 - (a) Without benefit of a road; and
 - (b) On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.
- (2) The term includes the following:
 - (a) A multi-wheel drive or low pressure tire vehicle;
 - (b) An amphibious machine;
 - (c) A ground effect air cushion vehicle;
 - (d) An all-terrain vehicle as defined in I.C. 14-8-2-5.7;
 - (e) A recreational off-highway vehicle as defined in I.C. 14-8-2-233.5; and/or
 - (f) Other means of transportation deriving motive power from a source other than muscle or wind.
- (3) The term does not include the following:
 - (a) A farm vehicle being used for farming including, but not limited to, a farm wagon as defined in I.C. 9-13-2-60(a)(2);
 - (b) A vehicle used for military or law enforcement purposes;
 - (c) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function including, but not limited to, a farm wagon as defined in I.C. 9-13-2-60(a)(3);
 - (d) A snowmobile as defined by I.C. 14-8-2-261;
 - (e) A registered aircraft;
 - (f) Any other vehicle properly registered by the Bureau of Motor Vehicles;
 - (g) Any watercraft that is registered under state statutes; and/or
 - (h) A golf cart vehicle.

RECREATIONAL OFF-ROAD VEHICLE. A motorized, off-highway vehicle that:

- (1) Is 65 inches or less in width;
- (2) Has a dry weight of 2,000 pounds or less;
- (3) Is designed for travel on at least four non-highway or off-highway tires; and
- (4) Is designed for recreational use by one or more individuals.

SIDE BY SIDE. A recreational off-road vehicle, as that term is defined herein, that has factory installed, side by side seating for no less than two and no more than six occupants and includes all of the following:

- (1) A steering wheel;
- (2) Non-straddle seating;

(3) Foot controls for throttle and braking (or adapted throttle and braking controls for use, uniquely, by handicapped operators); and

(4) Factory installed passenger restraints.

STREET or **HIGHWAY**. The entire width between the boundary lines of every way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel. The term includes an alley in a city or town.

(I.C. 9-13-2-175)

(Ord. 2017-1, passed 2-6-2017)

§ 73.02 RESTRICTED USE.

(A) Except as specifically permitted herein or by applicable state statute, golf carts and off-road vehicles may not be operated on public streets and highways within the town or otherwise on property owned or leased by the town.

(B) This subchapter does not permit and should be not be construed to permit golf carts or side by sides to be operated on any state highways located within the town, including specifically, but without limitation, SR 135 and SR 252.

(Ord. 2017-1, passed 2-6-2017) Penalty, see § 73.99

§ 73.03 ALLOWED USES.

(A) Golf carts and side by sides, as those terms are defined herein, may be operated on the streets and highways located within and under the jurisdiction of the town in strict compliance with the following.

(1) Golf carts and side by sides may be operated only by licensed drivers.

(2) Golf carts and side by sides shall be registered with the town on or before May 1 of each year. For each golf cart and side by side registered, the town will charge an annual registration fee of \$30 and will issue an annual certificate of registration for the period from May 1 of the current year through April 30 of the following year. As a condition of issuance of a certificate of registration, each owner of a golf cart or side by side must present valid proof of financial responsibility, as required by this subchapter, and, for side by sides, a copy of a valid state issued registration, as required by applicable state law, and make available for inspection the vehicle that is the subject of their application.

(3) Side by sides shall be registered and registrations and decals shall be displayed as may be required by applicable state statutes, including, without limitation, I.C. 14-16-1.

(4) Golf carts and side by sides may be operated only during daylight hours, unless equipped with working headlights and taillights.

(5) A slow moving vehicle emblem, which shall be the standard fluorescent orange triangle with retroreflective border that complies with the specifications found in 205 I.A.C. 1, shall be affixed, at all times, to all golf carts and side by sides operated on the streets of the town. The slow moving vehicle emblem shall be mounted point up in a plane perpendicular to the direction of travel and shall be placed centrally at the rear of the vehicle, unobscured, and three to five feet above the ground measured from the lower edge of the emblem.

(6) The number of passengers, in addition to the driver, of a golf cart or side by side shall be limited by and to the original factory seating available. All passengers and drivers must be seated at all times. No passenger shall ride on the lap of any other passenger.

(7) No golf cart or side by side, while being operated on the streets of the town, shall be used to tow, pull, push, or otherwise assist any other vehicle, trailer, boat, sled, skid, or other device or conveyance.

(8) Each owner of a golf cart or side by side must have available, at all times while the golf cart or side by side is being operated on the streets of the town, and present to a town police officer, upon request, proof of financial responsibility in a form prescribed by I.C. 9-25-4.

(9) Drivers of golf carts and side by sides shall operate them, at all times, in strict compliance with all other local traffic rules and regulations that apply to all other motor vehicles operated on the streets of the town.

(B) Golf carts and side by sides owned by non-residents of the town that are registered, as may be required by the county and the state, may be operated on town streets and highways in compliance with all other provisions of this subchapter.

(Ord. 2017-1, passed 2-6-2017) Penalty, see § 73.99

§ 73.04 EXCEPTIONS.

The specific rules of this subchapter shall not apply to town vehicles and equipment that may meet the definitions of golf carts or off-road vehicles, while being operated by on-duty town personnel. Town vehicles and equipment, that may meet the definitions of golf cart or off-road vehicle, may be operated by on-duty town personnel anywhere in town, subject only to the rights of private property owners.

(Ord. 2017-1, passed 2-6-2017)

TOY VEHICLES

§ 73.15 APPLICATION.

All traffic laws shall apply to bicycles, roller skates, roller blades, scooters, go-carts, foot-propelled vehicles, and gas or electric vehicles operated in the town.

(Ord. 1-2006, passed 1-3-2006)

§ 73.16 PROHIBITIONS.

Operation of said vehicles as denominated in § 73.15 upon sidewalks shall be prohibited upon sidewalks in the congested area/business district.

(Ord. 1-2006, passed 1-3-2006) Penalty, see § 73.99

§ 73.17 BICYCLE RESTRICTIONS.

Persons operating bicycles shall not ride other than upon a permanent and regular seat attached thereto nor carry passengers other than upon a firmly attached or auxiliary seat.

(Ord. 1-2006, passed 1-3-2006) Penalty, see § 73.99

§ 73.18 BUSINESS DISTRICT RESTRICTIONS; EXCEPTION.

(A) All the denominated vehicles shall not be operated upon any of the streets under the control of the town within the business district except while crossing the street at a crosswalk.

(B) Such crossing shall be granted to persons, however, subject to the rights and duties applicable to pedestrians.

(Ord. 1-2006, passed 1-3-2006) Penalty, see § 73.99

§ 73.19 BUSINESS DISTRICT DEFINED.

For the purpose of this subchapter, **CONGESTED AREAS/BUSINESS DISTRICT** is defined as the area consisting of Washington Street from Church to Marion Street; further Marion Street from Washington Street to Elm Street.

(Ord. 1-2006, passed 1-3-2006)

§ 73.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 70.99 of this code of ordinances.

(B) Any person who violates §§ 73.01 through 73.04 shall be subject to a fine for each separate violation in the amount of \$50. With regard to any golf cart or side by side operated in violation of §§ 73.01 through 73.04: for the first violation, each calendar year, the town registration shall be revoked for 30 days; for the second violation, each calendar year, the town registration will be revoked for one year.

(C) Violation or non-compliance with §§ 73.15 through 73.19 shall result in a fine of \$25 for each offense payable to any court in which the offense may be filed within 14 days of the judgment.

(Ord. 1-2006, passed 1-3-2006; Ord. 2017-1, passed 2-6-2017)

CHAPTER 74: TRAFFIC SCHEDULES

Schedule

I. Stop signs

II. One-way streets

SCHEDULE I. STOP SIGNS.

(A) *Stop signs.*

<i>Street</i>	<i>Location/Intersection</i>	<i>Direction(s)</i>
Elm Street	at Grant Street	-
Grant Street	at Elm Street	-

Michael Court	at Sycamore Street	-
Pine Street	at Sycamore Street	All
Raymond Court	at Sycamore Street	-
Steven Court	at Sycamore Street	-
Sycamore Street	at Pine Street	All

(B) *Penalty.* The fine for all motor vehicle violations, moving and non-moving, shall be \$75 for each violation.

(Ord. 98-2, passed 4-11-1998; Ord. 4-1998, passed 8-18-1998; Ord. 2004-9, passed 12-7-2004; Ord. 2014-3, passed 2-10-2014)

SCHEDULE II. ONE-WAY STREETS.

(A) *One-way street.* Morton Street is hereby designated and made a one-way street, south, from Elm Street to Maple Street, due to limited width.

(B) *Penalty.* The fine for all motor vehicle violations, moving, and non-moving, shall be \$75 for each violation.

(Ord. 2-1997, passed 7-12-1997; Ord. 2014-3, passed 2-10-2014)

CHAPTER 75: PARKING SCHEDULES

Schedule

I. No parking

SCHEDULE I. NO PARKING.

(A) *No parking.*

<i>Street</i>	<i>Location</i>	<i>Side(s)</i>
Church Street	Between Elm Street and SR 135	Both sides
Grant Street	From its intersection of Elm Street to Pike Street (also known as Bloomington Pike Street)	West

(B) *Penalty.* The fine for all motor vehicle violations, moving, and non-moving, shall be \$75 for each violation.

(Ord. 2-1997, passed 7-12-1997; Ord. 2007-3, passed 10- -2007; Ord. 2014-3, passed 2-10-2014)

Chapter

- 90. ABANDONED VEHICLES**
- 91. ANIMALS**
- 92. NUISANCES**
- 93. STREETS AND SIDEWALKS**
- 94. FAIR HOUSING**

CHAPTER 90: ABANDONED VEHICLES

Section

- 90.01 Purpose
- 90.02 Definitions
- 90.03 Exceptions
- 90.04 Responsibility of owner
- 90.05 Vehicles in possession of person other than owner
- 90.06 Private or rental property
- 90.07 Removal of abandoned vehicles
- 90.08 Disposal of abandoned vehicles
- 90.09 Towing contracts
- 90.10 Liability for loss or damage

§ 90.01 PURPOSE.

The Town Council finds that abandoned vehicles are a public nuisance and a safety and health hazard.

§ 90.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property without being moved for 24 hours;
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (4) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;
- (5) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;
- (6) A vehicle that has been removed by a towing service or the town upon request of an officer enforcing a statute or ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days of the vehicle's removal;
- (7) A vehicle that is at least three model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this division (7), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber cloth, or textile covering is considered to be visible; and
- (8) A vehicle:
 - (a) That was repaired or stored at the request of the owner;
 - (b) That has not been claimed by the owner; and
 - (c) For which the reasonable value of the charges associated with the repair or storage remain unpaid more than 30 days after the date on which the repair work is completed or the vehicle is first stored.

(I.C. 9-13-2-1)

AUTOMOBILE SCRAPYARD. A business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.

(I.C. 9-13-2-8)

BUREAU. The State Bureau of Motor Vehicles, unless otherwise indicated.

(I.C. 9-13-2-16)

FISCAL BODY. The Town Council.

(I.C. 9-13-2-63)

OFFICER. The Town Marshal, his or her designee, or a member of the Town Police Department.

(I.C. 9-22-1-2)

OWNER. The last known record titleholder of a vehicle, according to the records of the State Bureau under I.C. 9-17.

(I.C. 9-13-2-121(c))

PARTS. All components of a vehicle that, as assembled, do not constitute a complete vehicle.

(I.C. 9-13-2-122)

PRIVATE PROPERTY. All property other than public property.

(I.C. 9-13-2-136)

PUBLIC PROPERTY. A public right-of-way, street, highway, alley, park, or other state, county, or municipal property.

(I.C. 9-13-2-144)

TOWING SERVICE. A person who engages in moving or removing abandoned or disabled vehicles and, once the vehicles are moved or removed, stores or impounds the vehicles.

(I.C. 9-13-2-179)

VEHICLE. An automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational

vehicle, trailer, or semitrailer used in the transportation of watercraft, or motor driven cycle.

(I.C. 9-13-2-196(d))

§ 90.03 EXCEPTIONS.

This chapter does not apply to:

(A) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;

(B) A vehicle stored as the property of a member of the armed forces of the United States who is on active-duty assignment;

(C) A vehicle located on a vehicle sale lot;

(D) A vehicle located upon property licensed or zoned as an automobile scrapyard;

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle;

(F) A golf cart; or

(G) An off-road vehicle.

(I.C. 9-22-1-1)

§ 90.04 RESPONSIBILITY OF OWNER.

(A) Except as provided in division (C) below, the owner of an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts under this chapter.

(B) The costs for storage of an abandoned vehicle may not exceed \$1,500.

(C) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(D) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the removal, towing, and storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known.

(I.C. 9-22-1-4)

§ 90.05 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.

(A) When an officer discovers a vehicle in the possession of a person other than the owner of the vehicle, and the person cannot establish the right to the possession of the vehicle, the vehicle shall be taken to and stored in a suitable place.

(I.C. 9-22-1-5)

(B) If the owner or lienholder under I.C. 9-22-1-8 does not appear and pay all costs, or the owner of the vehicle cannot be determined by a search conducted under § 90.08, the vehicle is considered abandoned and must be disposed of in accordance with this chapter.

(I.C. 9-22-1-7)

(C) If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released. A towing service shall notify the appropriate public agency of all releases under this section. The notification must include the name, signature, and address of the person that owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and the date of release.

(I.C. 9-22-1-8)

§ 90.06 PRIVATE OR RENTAL PROPERTY.

(A) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

(1) Obtain the assistance of an officer under § 90.07(E) of this chapter to have the vehicle removed; or

(2) Personally arrange for the removal of the vehicle by complying with divisions (B), (C), and (D) below.

(B) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns or controls the private property, and a telephone number to contact for information;

(2) That the vehicle is considered abandoned;

- (3) That the vehicle will be removed after 24 hours;
- (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle; and
- (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 24 hours.

(I.C. 9-22-1-15)

(C) If, after 24 hours, the person who owns a vehicle believed to be abandoned on private property has not removed the vehicle from the private property, the person who owns or controls the private property on which the vehicle is believed to be abandoned may have the vehicle towed from the private property.

(I.C. 9-22-1-16(a))

(D) Notwithstanding division (C) above, in an emergency situation a vehicle believed to be abandoned on private property may be removed immediately. As used in this section, **EMERGENCY SITUATION** means that the presence of the vehicle believed to be abandoned interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

(I.C. 9-22-1-16(b))

(E) A towing service that tows a vehicle under divisions (C) and (D) above shall give notice to the town that the abandoned vehicle is in the possession of the towing service.

(I.C. 9-22-1-17)

§ 90.07 REMOVAL OF ABANDONED VEHICLES.

(A) An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, Town Police Department, and address and telephone number to contact for information;
- (2) Statement that the vehicle or parts are considered abandoned;
- (3) Statement that the vehicle or parts will be removed after:
 - (a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or
 - (b) Seventy-two hours, for any other vehicle.
- (4) Statement that the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle; and
- (5) Statement that the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:
 - (a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or
 - (b) Seventy-two hours, for any other vehicle.

(I.C. 9-22-1-11)

(B) If a vehicle or a part tagged under division (A) above is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts.

(I.C. 9-22-1-12)

(C) If the vehicle is a junk vehicle and the market value of an abandoned vehicle or parts is less than \$1,000, the towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of an abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. A town that operates a storage yard under I.C. 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrapyards or an automotive salvage recycler upon removal of the abandoned vehicle. The Police Department, Town Marshal, or storage yard shall retain the original records and photographs for at least two years. If the vehicle is demolished, a copy of the abandoned vehicle report shall be forwarded to the State Bureau of Motor Vehicles by the automobile scrap yard after the vehicle has been demolished.

(I.C. 9-22-1-13)

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is at least \$1,000, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

(I.C. 9-22-1-14)

(E) Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in divisions (A) through (D) above.

(I.C. 9-22-1-18)

§ 90.08 DISPOSAL OF ABANDONED VEHICLES.

(A) (1) Within 72 hours after removal of a vehicle to a storage yard or towing service under §§ 90.06(C) or (D), or 90.07(C) or (D), the Police Department, Town Marshal, or towing service shall conduct a search of national databases, including a database of vehicle identification numbers, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.

(2) A public agency or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall, not later than 72 hours after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the name, address, and telephone number of the public agency or towing service. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the Bureau. Notwithstanding I.C. 9-22-1-4, a public agency or towing service that fails to notify the owner of or lienholder on the vehicle as set forth in this section may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

(I.C. 9-22-1-19)

(B) The Bureau shall dispose of the vehicle in accordance with I.C. 9-22-1-19.

§ 90.09 TOWING CONTRACTS.

To facilitate the removal of abandoned vehicles or parts, the town may employ personnel; acquire equipment, property, and facilities; and enter into towing contracts for the removal, storage, and disposition of abandoned vehicles and parts.

(I.C. 9-22-1-31)

§ 90.10 LIABILITY FOR LOSS OR DAMAGE.

The following are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of a vehicle or parts under this chapter:

(A) A person who owns, leases, or occupies property from which an abandoned vehicle or its contents or parts are removed;

(B) The town;

(C) A towing service;

(D) An automobile scrapyards;

(E) A storage yard; and

(F) An agent or a person or entity listed in divisions (A) through (E) above.

(I.C. 9-22-1-32)

§ 90.11 LIENS ON VEHICLES FOR TOWING SERVICES.

(A) An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of the person that owns the motor vehicle, trailer, semitrailer, or recreational vehicle; at the request of an individual, a firm, a partnership, a limited liability company, or a corporation on whose property an abandoned motor vehicle, trailer, semitrailer, or recreational vehicle is located; or in accordance with this chapter; has a lien on the vehicle for the reasonable value of the charges for the towing services and other related costs in accordance with I.C. 9-22-6.

(B) An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under this section must comply with § 90.06(C), (D), and (E), § 90.08, and I.C. 9-22-6.

CHAPTER 91: ANIMALS

Section

- 91.01 Abandonment
- 91.02 Maintaining animals
- 91.03 Dogs at large
- 91.04 Noise disturbance
- 91.05 Impounding
- 91.06 Reclaiming of animal
- 91.07 Unreclaimed animal
- 91.08 Period of impoundment
- 91.09 Immunizations

- 91.99 Penalty

§ 91.01 ABANDONMENT.

No owner of a domestic animal shall abandon such animal. The Town Marshal, police officer, and/or dog warden may destroy any animal found abandoned and suffering and not properly cared for or appearing to be injured, diseased, or suffering past recovery for any useful purpose.

(Ord. 2-2002, passed 4-2-2002) Penalty, see § 91.99

§ 91.02 MAINTAINING ANIMALS.

No person shall keep, maintain, harbor, or stable domestic animals consisting of cattle, horses, mules, swine, sheep, goats, or poultry on any property within the boundaries of the town.

(Ord. 2-2002, passed 4-2-2002) Penalty, see § 91.99

§ 91.03 DOGS AT LARGE.

No person shall allow any dog to run at large. *AT LARGE* means any dog found off the premises of its owner and not under the control of a suitable person.

(Ord. 2-2002, passed 4-2-2002) Penalty, see § 91.99

§ 91.04 NOISE DISTURBANCE.

No person shall keep or harbor any domestic animal which, by barking, howling, or yelping, creates unreasonably loud and disturbing noises of such character, intensity, and duration as to disturb the peace, quiet, and order of the community.

(Ord. 2-2002, passed 4-2-2002) Penalty, see § 91.99

§ 91.05 IMPOUNDING.

Any animal discovered running at large may be apprehended and confined by the Town Marshal, police officer, and/or dog warden at suitable places.

(Ord. 2-2002, passed 4-2-2002)

§ 91.06 RECLAIMING OF ANIMAL.

Impounded animals may be reclaimed upon payment to the Clerk-Treasurer of the following fees:

(A) A fee of \$25 for apprehending and impounding the animal; and

(B) A storage and maintenance fee of not less than \$5 per day during the period of confinement. Such amount may be increased from time to time as may be the actual charges of the facility which takes the custody of the animal.

(Ord. 2-2002, passed 4-2-2002)

§ 91.07 UNRECLAIMED ANIMAL.

Animals which are not reclaimed shall have assessed against the owner a \$25 fee for apprehending and impounding the animal and the storage and maintenance fee as heretofore provided, which amount shall be paid to the Clerk-Treasurer.

(Ord. 2-2002, passed 4-2-2002)

§ 91.08 PERIOD OF IMPOUNDMENT.

(A) All animals shall be kept and maintained for a period of three days, excluding the date of impoundment.

(B) Failure of the owner to reclaim the animal within such period of time shall result in the animal being destroyed or delivered to a duly licensed humane society.

(Ord. 2-2002, passed 4-2-2002)

§ 91.09 IMMUNIZATIONS.

Every owner of a dog over six months of age shall have such dog immunized against rabies, as evidenced by a tag worn by the dog.

(Ord. 2-2002, passed 4-2-2002) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Failure to have a dog immunized against rabies pursuant to § 91.09 shall result in a fine payable to the Clerk-Treasurer in the sum of \$25.

(B) Violation of this chapter with regard to any violation and, in particular, abandonment, maintaining an animal, and dogs at large shall result in a fine payable to the Clerk-Treasurer in the sum of \$25. For violation, and in the event of failure to pay the same, may be pursued in the name of the town.

(Ord. 2-2002, passed 4-2-2002)

CHAPTER 92: NUISANCES

Section

General Provisions

- 92.01 Enforcement; administration
- 92.02 Public nuisance prohibition
- 92.03 Public nuisances enumerated
- 92.04 Compliance requirement
- 92.05 Notice of violation
- 92.06 Abatement of violations
- 92.07 Abatement costs to violator
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Open Burning

- 92.20 Definitions
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Weeds and Other Rank Vegetation

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GENERAL PROVISIONS

§ 92.01 ENFORCEMENT; ADMINISTRATION.

The Town Marshal shall be responsible for the enforcement and administration of this subchapter.

(Ord. 2015-4, passed 7-6-2015)

§ 92.02 PUBLIC NUISANCE PROHIBITION.

For purpose of this subchapter, any person who does any of the following will be in violation of this subchapter and subject to the enforcement and abatement actions and penalties as set forth herein and as provided for in I.C. 36-1-6-2, incorporated herein by reference:

(A) Maintains or permits a condition that unreasonably annoys, injures, or endangers the safety, health, morals, or comfort of the public;

(B) Interferes with, obstructs, or renders dangerous for passage or use, any public right-of-way or

easement, sidewalk, ditch, or other public facility; or

(C) Does any other act or omission declared by law or this subchapter to be a public nuisance.

(Ord. 2015-4, passed 7-6-2015) Penalty, see § 92.99

§ 92.03 PUBLIC NUISANCES ENUMERATED.

(A) The following, for purposes of this subchapter, are declared to be public nuisances:

(1) Snow or ice, rain, stormwater, wastewater transferred, diverted, or discharged from private property onto a public street or sidewalk;

(2) All trees, shrubs, hedges, weeds, grass, and other vegetation, signs, fences, and other obstructions that block or interfere with the view or line of sight of oncoming vehicular traffic on the public roads;

(3) All trees (and limbs or roots thereof), shrubs, hedges, weeds, grass, and other vegetation that cause damage to, or interfere with, the safe and efficient use, by pedestrian and vehicular traffic, as the case may be, of public streets, sidewalks, or trails;

(4) Obstructions and excavations affecting the ordinary and intended public use of streets, alleys, sidewalks, public grounds, natural waterways, ditches, gutters, drains, and curbs, except as may be expressly permitted by this subchapter or other applicable law;

(5) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;

(6) A party or other gathering that unreasonably disturbs the peace, quiet, or repose of the public or of another person's use and enjoyment of his or her property;

(7) Barbed wire, razor wire, or any sharp iron points on any railing or posts;

(8) Discarded or irreparable machinery, household appliances, automobile bodies, or other materials or related parts stored or kept in open view;

(9) Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard;

(10) Garbage, trash, debris, leaves, compost or limbs, or other discarded items placed or left on a public right-of-way or on adjacent private property, except as expressly permitted by this subchapter or other applicable ordinances of the town, for example, to allow for planned solid waste collection;

(11) All other conditions or things likely to cause injury to the person or property of another;

(12) Any distinct noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of any person, or interferes with the enjoyment of his or her property;

(13) The discharging of the exhaust or permitting the discharge of the exhaust of any internal combustion engine, motor vehicle, motorcycle, or all-terrain vehicle (ATV), except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(14) The use or operation, or permitting the use or operation, of any radio receiving set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinct and loud manner that disturbs the peace, quiet, or comfort of any other or the general public;

(15) The outside parking and/or storage on residentially zoned property of vehicle parts, building materials, appliances, equipment, or other objects not customarily used for residential purposes that:

(a) Obstruct views of streets;

(b) Create cluttered and otherwise unsightly areas;

(c) Prevent the full use of residential streets for residential parking;

(d) Decrease adjoining landowners' and occupants' use and enjoyment of their property and neighborhood; or

(e) Otherwise adversely affect property values and neighborhood patterns.

(16) "Abandoned vehicles" as that term is defined in I.C. 9-13-2-1, which, as of the date of this subchapter, defines an abandoned vehicle as:

(a) A vehicle located on public property illegally;

(b) A vehicle left on public property without being moved for 24 hours;

(c) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;

(d) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;

(e) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;

(f) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal;

(g) A vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this division (A)(16)(g), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible; and/or

(h) A vehicle that was repaired or stored at the request of the owner, that has not been claimed by the owner, and for which the reasonable value of the charges associated with the repair or storage remain unpaid more than 30 days after the date on which the repair work is completed or the vehicle is first stored.

(B) I.C. 9-22-1 and 9-13-2, as may be amended from time to time, are hereby adopted and incorporated herein by reference and, to the extent applicable, will control in all matters related to the removal, storage, disposal, and other regulation of abandoned vehicles.

(Ord. 2015-4, passed 7-6-2015)

§ 92.04 COMPLIANCE REQUIREMENT.

Owners and occupants of real property within the town shall maintain and use their property in a manner that does not constitute a public nuisance and otherwise complies with this subchapter.

(Ord. 2015-4, passed 7-6-2015) Penalty, see § 92.99

§ 92.05 NOTICE OF VIOLATION.

(A) In the event of a violation of this subchapter, an officer of the Police Department shall issue a written notice (violation notice) to the property owner, as identified in and at the address appearing in the records of the County Auditor, either by personal delivery or by way of registered or certified mail or other public means by which a written acknowledgment of receipt may be requested and obtained.

(B) The violation notice shall:

(1) Inform the property owner of a violation of this subchapter and describe, with reasonable particularity, the conditions that constitute a public nuisance;

(2) Direct the property owner to abate the violation within ten days from the date of receipt of the violation notice;

(3) Inform the property owner that if the violation is not abated the town may elect to abate the violation and bill the property owner for the costs incurred by the town, including administrative costs and attorney's fees; and

(4) Advise the property owner that the violation may be appealed by submitting, within ten days from the date of receipt of the violation notice, a written notice of appeal.

(Ord. 2015-4, passed 7-6-2015) Penalty, see § 92.99

§ 92.06 ABATEMENT OF VIOLATIONS.

(A) In the event a violation of this subchapter is not abated within the time prescribed in the violation notice, the town, as permitted by and pursuant to I.C. 36-1-6-2, may enter on to the property and abate the violation or contract with a private contractor to abate the violation.

(B) The town may abate an ongoing violation in the same manner and as often as the conditions on the property require.

(Ord. 2015-4, passed 7-6-2015) Penalty, see § 92.99

§ 92.07 ABATEMENT COSTS TO VIOLATOR.

(A) If the town abates a violation, it will issue a bill to the property owner for the costs it incurs in bringing the property into compliance with this subchapter including administrative costs, removal costs, and attorney's fees.

(B) A bill issued to the property owner, under this section, will be delinquent if not paid within 30 days after the date of the issuance of the bill.

(Ord. 2015-4, passed 7-6-2015)

§ 92.08 APPEAL; HEARING.

A property owner may appeal a violation notice or a bill issued under this subchapter by delivering to the Town Marshal, within ten days of receipt of a violation notice or bill, a written notice of appeal and request for a hearing at the next regular meeting of the Town Council. At the hearing, the property owner may present evidence to the Town Council. Upon the conclusion of the hearing, the Town Council shall make a final decision concerning the appeal, take the matter under advisement, or take such other action as the Town Council deems advisable. During the pendency of the appeal, the town will cease enforcement and collection efforts.

(Ord. 2015-4, passed 7-6-2015)

OPEN BURNING

§ 92.20 DEFINITIONS.

626 I.A.C. 4 and I.C. 13-17-9, and the separate definitions, prohibitions, rules, and exceptions, are hereby incorporated in and made a part of this subchapter and the town code.

(Ord. 2015-8, passed 9-14-2015)

§ 92.21 PROHIBITION OF OPEN BURNING.

Except as expressly permitted by § 92.22, all open burning everywhere in the town is prohibited.

(Ord. 2015-8, passed 9-14-2015) Penalty, see § 92.99

§ 92.22 EXCEPTIONS.

(A) For maintenance purposes only and without first obtaining a permit or other authorization, a person may openly burn the following:

(1) Vegetation from a/an:

- (a) Farm;
- (b) Orchard;
- (c) Nursery;
- (d) Tree farm;
- (e) Cemetery; or
- (f) Drainage ditch.

(2) Wood products derived from pruning or clearing a roadside by a county highway department.

(B) Subject to and in strict compliance with the conditions of § 92.23, and other applicable conditions as set forth in this section, the following types of fires are permitted in the town.

(1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the following conditions:

(a) Only the following may be burned:

1. Clean wood products;
2. Paper;
3. Charcoal; and/or
4. Clean petroleum products.

(b) Any person conducting recreational or ceremonial fires shall notify the local Fire Department and Health Department at least 24 hours prior to any burning if the size of the pile being burned is more than 125 cubic feet and include the date, time, and location of the burning;

(c) Fires shall:

1. Not be ignited more than two hours before the recreational activity is to take place; and
2. Be extinguished upon conclusion of the activity.

(d) The pile to be burned shall be less than or equal to 1,000 cubic feet and only one pile may be burned at a time;

(e) The fires shall not be used for disposal purposes; and

(f) Fires shall not be located within 500 feet of any fuel storage area or pipeline.

(2) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom, subject to the following conditions:

- (a) Burning shall only occur between October 1 and May 15; and
 - (b) Burning shall not be conducted for the purpose of disposal.
- (3) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions of § 92.23.
- (4) Burning of clean petroleum products, natural gas, methane, or propane for fire extinguisher training, including mobile or stationary training units, subject to the following conditions:
- (a) The local Fire Department and Health Department must be notified at least 24 hours in advance of the date, time, and location of the burning;
 - (b) Except as provided in division (B)(4)(c) below, daily fuel volume amounts burned are limited to one of the following:
 - 1. Fourteen gallons of clean petroleum products;
 - 2. Two hundred and twelve gallons of propane; or
 - 3. Twenty-nine thousand and seven hundred cubic feet of natural gas or methane.
 - (c) A combination of the fuels listed in division (B)(4)(b) above may be burned each day. The amount of each fuel that can be burned each day shall be determined as follows:
 - 1. The volume of each fuel to be burned each day shall be calculated as a percentage of the maximum volume allowed in division (B)(4)(b) above for that fuel; and
 - 2. The sum of the percentages for each fuel burned each day shall not exceed 100%.
 - (d) All burning of clean petroleum products shall take place in a noncombustible container or enclosure that has enclosed sides and a bottom;
 - (e) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination or uncontrolled spread of the fire; and
 - (f) Only one fire may be allowed to burn at a time.
- (5) Burning of two single-family, non-demolished structures per calendar year by municipal Fire Departments for purposes of live fire training, subject to the following conditions:
- (a) Written notification must be submitted to the State Department of Environmental Management, Office of Air Quality, at least 30 days prior to the burning with the date, time, and location of the burning included. A copy of the notification shall be made available at the burning site to state and local officials upon request;
 - (b) The Fire Department conducting the fire training must provide written notification to each interested party or person owning or renting property within 500 feet of the structure to be burned at least 15 days prior to the training activity or publish a notice of intent to burn in the local newspaper at least 15 days prior to the training activity;
 - (c) The Fire Department must notify the County Health Department and County Sheriff's Department at least 24 hours prior to the burning and include the date, time, and location of the burning;
 - (d) All asbestos-containing materials, asphalt roofing including backer paper, and vinyl siding including Styrofoam backer insulation must be removed before the intentional burning of any structure. These materials may not be burned and must be handled or disposed of in accordance with the applicable rules of the Solid Waste Management Board at 329 I.A.C. 10 and 329 I.A.C. 11;
 - (e) Mercury-containing equipment and fluorescent bulbs must be removed from the house and properly recycled or disposed of in accordance with the applicable rules of the Solid Waste Management Board at 329 I.A.C. 10;
 - (f) No burning shall take place within 100 feet of a structure or power line or 300 feet of a frequently traveled road, fuel storage area, or pipeline; and
 - (g) All burning must comply with other federal, state, or local laws, regulations, or ordinances, including 40 C.F.R. part 61, subpart M* (National Emissions Standards for Asbestos).
- (6) Ceremonial burning of United States flags, subject to the following conditions.
- (a) Any person conducting ceremonial burning of United States flags shall notify the local Fire Department and Health Department at least 24 hours prior to any burning if the size of the pile being burned is more than 125 cubic feet and include the date, time, and location of the burning.
 - (b) Fires shall not be ignited more than two hours before the activity is to take place and shall be

extinguished upon conclusion of the activity.

(c) The pile to be burned shall be less than or equal to 1,000 cubic feet, and only one pile may be burned at a time.

(d) Fires shall not be located within 500 feet of any fuel storage area or pipeline.

(Ord. 2015-8, passed 9-14-2015) Penalty, see § 92.99

§ 92.23 CONDITIONS FOR PERMITTED FIRES.

Unless specifically excepted, the following conditions, in addition to the conditions applicable to certain types of fires as set forth in § 92.22(B), shall apply to all permitted fires and open burning in the town.

(A) Fires must be attended at all times and until completely extinguished.

(B) A fire shall be extinguished if at any time it creates a:

- (1) Pollution problem;
- (2) Threat to public health;
- (3) Nuisance; or
- (4) Fire hazard.

(C) No burning shall be conducted during unfavorable meteorological conditions such as any of the following:

- (1) High winds;
- (2) Temperature inversions;
- (3) Air stagnation; and/or
- (4) When a pollution alert or air quality action day has been declared.

(D) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

(E) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

(F) Open burning shall be conducted during daylight hours only, and all fires, except for recreational or ceremonial fires, such as campfires, shall be extinguished before sunset.

(Ord. 2015-8, passed 9-14-2015) Penalty, see § 92.99

WEEDS AND OTHER RANK VEGETATION

§ 92.35 ADMINISTRATION; ENFORCEMENT.

The Town Marshal shall be responsible for the administration and enforcement of this subchapter.

(Ord. 2016-4, passed 10-3-2016)

§ 92.36 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

IMPROVED. Real estate on which one or any number of structures, such as houses, mobile homes, commercial buildings, and other primary and accessory structures, without regard to their use or condition, are located.

WEEDS AND OTHER RANK VEGETATION.

(1) All types of grass, weeds, and vegetation (excluding non-volunteer: trees, bushes, shrubs, landscaping flowers, and landscaping plants) which exceed the permissible height for each type of property as follows:

(a) With respect to all areas of improved real estate, grass, weeds, and vegetation shall not exceed ten inches in height;

(b) With respect to all areas of unimproved real estate located within 15 feet of the edge of a public street or within public street right-of-way (including landscaped islands), grass, weeds, and vegetation shall not exceed ten inches in height;

(c) With respect to all other real estate including, without limitation, unimproved residential and commercial lots, grass, weeds, and vegetation shall not exceed 16 inches in height; and

(d) With respect to real estate located within dedicated or platted drainage easements, except for platted drainage easements running along and parallel to side yard property lines between residential lots, grass, weeds and vegetation shall not exceed 30 inches in height.

(2) All grass, weeds, vegetation, trees, or brush that interferes with the public safety or lawful use of governmental property, rights-of-way, or easements.

(3) **WEEDS AND RANK VEGETATION** shall not include agricultural crops such as hay and pasture, unless they pose a threat to public safety.

(Ord. 2016-4, passed 10-3-2016)

§ 92.37 VIOLATION.

It shall be a violation of this subchapter for any person to allow weeds and other rank vegetation, as defined herein, to exist on his or her property.

(Ord. 2016-4, passed 10-3-2016) Penalty, see § 92.99

§ 92.38 NOTICE OF VIOLATION.

(A) Notice of a violation of this subchapter will, by a duly authorized agent of the town, be handed directly or sent, by first class mail or an equivalent service permitted under I.C. 1-1-7-1, to:

- (1) The owner of record of real property with a single owner; and/or
- (2) At least one owner of real property owned by multiple owners.

(B) The notice shall:

- (1) Inform the property owner of a violation of this subchapter;
- (2) Direct the property owner to abate the violation within ten days;
- (3) Inform the property owner that if the violation is not abated the town may elect to abate the violation and bill the property owner for the costs incurred by the town, including administrative costs; and
- (4) Advise the property owner that the violation may be appealed by submitting, within the time prescribed in the notice for abating the violation, a written notice of appeal.

(C) If an initial notice of the violation is provided by certified mail, first class mail, or other equivalent service under this section, a continuous abatement notice may be posted on the property. A continuous abatement notice serves as notice to the property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the town or its contractors.

(Ord. 2016-4, passed 10-3-2016)

§ 92.39 ABATEMENT.

In the event a violation or of this subchapter is not abated within the time prescribed in the notice, the town may enter on to the property and abate the violation or contract with a private contractor to abate the violation. The town may abate an ongoing violation in the same manner and as often as the conditions on the property require.

(Ord. 2016-4, passed 10-3-2016)

§ 92.40 ABATEMENT BILL.

A duly authorized agent of the town shall prepare and mail to the property owner(s), at the tax billing address, via certified mail, return receipt requested, a bill for abating the violation. The bill shall state that payment is due within 30 days and that if payment is not timely made the town will certify to the County Auditor the amount of the bill, plus any additional administrative costs. The amount of the total bill, plus accrued interest, will be placed on the property tax bill for the property affected, to be collected as delinquent property taxes are collected.

(Ord. 2016-4, passed 10-3-2016)

§ 92.41 APPEAL.

A property owner may appeal a notice of violation or a bill issued under this subchapter by filing a written notice of appeal and requesting a hearing at the next regular meeting of the Town Council. At the hearing, the property owner may present evidence to the Town Council. Upon the conclusion of the hearing, the Town Council shall make a final decision concerning the appeal, take the matter under advisement, or take such other action as the Town Council deems advisable. During the pendency of the appeal, the town will cease enforcement and collection efforts.

(Ord. 2016-4, passed 10-3-2016)

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) In the event a violation of §§ 92.01 through 92.08 is not abated within the time prescribed in the violation notice, the property owner may be subject to penalties of up to \$300 per day for each day the

violation continues beyond the time prescribed for abatement.

(C) Any person violating §§ 92.20 through 92.23 may be fined, by the town, up to \$300 per occurrence. (Ord. 2015-4, passed 7-6-2015; Ord. 2015-8, passed 9-14-2015)

CHAPTER 93: STREETS AND SIDEWALKS

Section

Excavations and Construction

- 93.01 Opening permit required
- 93.02 Application and cash deposit
- 93.03 Restoration of pavement
- 93.04 Barriers around excavations
- 93.05 Warning lights
- 93.06 Sidewalk construction

Obstructions

- 93.20 Unloading on street or sidewalk
- 93.21 Street and sidewalk obstruction
- 93.22 Materials on street or sidewalk

EXCAVATIONS AND CONSTRUCTION

§ 93.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized town official, to make any opening in any street, alley, sidewalk, or public way of the town unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see § 10.99

§ 93.02 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the authorized town official. Application shall be made on a form prescribed by the Town Council, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized town official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 93.03 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized town official, and in accordance with rules, regulations, and specifications approved by the Town Council.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the town may proceed without notice to make the fill and restoration, and the deposit referred to in § 93.02 shall be forfeited. Thereupon the deposit shall be paid into the appropriate town fund, except the part demanded and paid to the permittee as the difference between the deposit and the charges of the town for restoration services performed by it. If the amount of the services performed by the town should exceed the amount of the deposit, the Clerk-Treasurer or other proper administrative officer shall proceed to collect the remainder due from the permittee.

§ 93.04 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 10.99

§ 93.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one

additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 10.99

§ 93.06 SIDEWALK CONSTRUCTION.

It shall be the duty of the authorized town official to supervise construction or repair of sidewalks within the town. He or she shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the Town Council for approval. When the specifications are approved, the Town Council shall advertise for proposals to do all the work which may be ordered by the town in construction and repair of sidewalks, and shall authorize the town executive to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall give bond for the faithful performance of the work. The town executive, if authorized by Town Council, may make separate contracts for the different kinds of work with different parties.

OBSTRUCTIONS

§ 93.20 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the town by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 10.99

§ 93.21 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the town by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 10.99

§ 93.22 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind so as to interfere with the free and unobstructed use thereof.

Penalty, see § 10.99

CHAPTER 94: FAIR HOUSING

Section

- 94.01 Policy statement
- 94.02 Definitions
- 94.03 Unlawful practice
- 94.04 Discrimination in the sale or rental of housing
- 94.05 Discrimination in residential real estate related transactions
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- 94.09 Exemptions
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- 94.99 Penalty

§ 94.01 POLICY STATEMENT.

It shall be the policy of the town to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 et seq.

(Ord. 2013-8, passed 8-5-2013)

§ 94.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.
(I.C. 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 et seq.

(I.C. 22-9.5-2-3)

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6.

(I.C. 22-9.5-2-4)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 94.04 through 94.08 or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families.

(I.C. 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of **FAMILIAL STATUS** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in the definition for “familial status” above. Also, pursuant to 24 C.F.R. part 5, the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

HANDICAP.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person’s major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990;

(e) Any other impairment defined under I.C. 22-9.5-2-10;

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9.5-2-10(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

PERSON. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers, and fiduciaries.

(I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease, to let, and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

(I.C. 22-9.5-2-13)

(Ord. 2013-8, passed 8-5-2013)

§ 94.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, § 94.09 of this code, and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 94.04 of this chapter shall apply to:

(A) All dwellings except as exempted by division (B) below and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) below, nothing in § 94.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or exemption shall

apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent, or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesperson, or person; and

(b) Without the publication, posting, or mailing, after notice of advertisement or written notice in violation of § 94.04(A)(3), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(C) For the purposes of division (B) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 2013-8, passed 8-5-2013)

§ 94.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

(A) As made applicable by § 94.03 and except as exempted by §§ 94.03(B) and 94.09, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status, or national origin;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin;

(6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(a) The buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(7) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a

dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

- (a) The person;
 - (b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (c) Any person associated with that person.
- (8) For purposes of this section, discrimination includes:
- (a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person. If such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;
 - (b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - (c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:
 1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
 2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 3. All premises within such dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling;
 - b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations; and
 - c. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(B) Compliance with the appropriate requirements of the Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (A)(8)(c)3.c. above.

(C) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. 2013-8, passed 8-5-2013) Penalty, see § 94.99

§ 94.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(B) As used in this section, the term **RESIDENTIAL REAL ESTATE RELATED TRANSACTION** means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Ord. 2013-8, passed 8-5-2013) Penalty, see § 94.99

§ 94.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Ord. 2013-8, passed 8-5-2013) Penalty, see § 94.99

§ 94.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 94.03 through 94.06.

(Ord. 2013-8, passed 8-5-2013) Penalty, see § 94.99

§ 94.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with the following shall be subject to penalties as detailed in § 94.99:

(A) Any person because of his or her race, color, religion, sex, handicap, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(B) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from: participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A) above; or affording another person or class of persons opportunity or protection so to participate; and

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate.

(Ord. 2013-8, passed 8-5-2013) Penalty, see § 94.99

§ 94.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(C) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, **HOUSING FOR OLDER PERSONS** means housing:

(1) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly people (as defined in the state or federal program);

(2) Intended for, and solely occupied by, people 62 years of age or older; or

(3) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 2013-8, passed 8-5-2013)

§ 94.10 ADMINISTRATIVE ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in division (B) below shall be vested in the chief elected official of the town.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the chapter, herein elects to refer all formal complaints of violation of the provisions of this chapter by complainants to the State Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the chief elected official of the town shall refer all said complaints to the Commission as provided for under division (A) above to said Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the town shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief elected official and the Commission to further such purposes.

(D) The chief elected official of the town or the chief elected official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 2013-8, passed 8-5-2013)

§ 94.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person found in violation of § 94.08 shall be fined according to local, state, and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. 2013-8, passed 8-5-2013)

Chapter

110. GENERAL LICENSING PROVISIONS

111. PEDDLERS AND SOLICITORS

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 Licenses required to engage in certain trades, businesses, or professions
- 110.02 Application for license
- 110.03 Standards; issuance of license
- 110.04 Date and duration of license
- 110.05 License not transferable
- 110.06 License certificate to be displayed
- 110.07 Revocation or suspension
- 110.08 Appeal and review
- 110.09 Exemptions

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN TRADES, BUSINESSES, OR PROFESSIONS.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by any provision of this code or any other ordinance of the town without first applying for and obtaining a license from the Clerk-Treasurer or other duly authorized issuing authority.

Penalty, see § 10.99

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the Clerk-Treasurer in writing upon forms to be furnished by him or her and shall contain:

- (1) The name of the applicant and of each officer, partner, or business associate;
- (2) His or her present occupation and place of business;
- (3) His or her place of residence for five years next preceding the date of application;

- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;
- (6) A description of the merchandise to be sold, if for a vendor; and
- (7) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Renewal of an annual license may be granted to a licensee in good standing upon the original application, unless otherwise provided.

(C) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(D) It shall be unlawful to knowingly make any false statement or representation in the license application.

Penalty, see § 10.99

§ 110.03 STANDARDS; ISSUANCE OF LICENSE.

(A) Upon receipt of an application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the Clerk-Treasurer shall forthwith deposit the fee in the General Fund of the town and issue to the applicant a proper license certificate signed by the Clerk-Treasurer and any other appropriate town official. If for any reason the license is not issued, the license fee shall be returned to the applicant.

(B) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(C) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. Tangible evidence of any of the following will constitute valid reasons for disapproval of an application:

- (1) The applicant has been convicted of a crime of moral turpitude;
- (2) The applicant has made willful misstatements in the application;
- (3) The applicant has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like;
- (4) The applicant has committed prior fraudulent acts;
- (5) The applicant has a record of continual breaches of solicited contracts; or
- (6) The applicant has an unsatisfactory moral character.

§ 110.04 DATE AND DURATION OF LICENSE.

(A) A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 14, licenses may be issued for the ensuing calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issue of the license.

(B) In no event shall a license be granted to any business or any person for a longer time than one year.

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

Penalty, see § 10.99

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the licensed premises the license certificate. Other licensees shall carry their license certificates at all times and, whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 10.99

§ 110.07 REVOCATION OR SUSPENSION.

A license granted under this chapter may be suspended or revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application;
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;

- (C) Any violation of this chapter;
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 110.08 APPEAL AND REVIEW.

(A) Any person aggrieved by a decision under §§ 110.03 or 110.07 shall have the right to appeal to the Town Council. The appeal shall be taken by filing with the Town Council, within 14 days after notice of the decision has been mailed to the person’s last known address, a written statement setting forth the grounds for appeal. The Town Council shall set the time and place for a hearing, and notice for the hearing shall be given to the person by mail at his or her last known address, at least ten days prior to the date set for the hearing.

(B) The order of the Town Council after the hearing shall be final.

§ 110.09 EXEMPTIONS.

The provisions of this chapter shall not apply to any business, occupation, or profession which is exempt from municipal licensing or license taxes pursuant to state or federal law.

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

Door-to-Door Solicitation

- 111.01 Definitions
- 111.02 Licensing; fees
- 111.03 Restrictions
- 111.04 License revocation
- 111.05 Exceptions

- 111.99 Penalty

DOOR-TO-DOOR SOLICITATION

§ 111.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOOR-TO-DOOR SOLICITATION. In-person, uninvited efforts, conducted by vendors on private property, to market and sell non-exempt merchandise or services or to procure non-exempt donations.

EXEMPT PERSON.

- (1) An individual while and to the extent he or she is engaged in protected political speech or protected religious speech;
- (2) An individual engaged in the solicitation of funds and/or the sale of cookies, candies, paper products, or similar sundries for and on behalf of a non-profit organization or association that is exempt from the state gross retail tax; and/or
- (3) An individual who, due to the preemption of applicable federal or state law, is exempt from local licensing requirements.

VENDOR. A person, partnership, corporation, company, organization, or entity who is not an exempt person and who markets, promotes, and/or sells merchandise and/or services and/or who is engaged in the solicitation of funds.

(Ord. 2015-5, passed 7-20-2015)

§ 111.02 LICENSING; FEES.

(A) Any vendor who desires to engage in door-to-door solicitation in the town shall first obtain from the Town Police Department a non-transferable door-to-door solicitation license (“license”) and pay all applicable fees.

(B) Vendors may request a license by obtaining from, completing, and submitting to the Town Police Department a door-to-door vendor application (“application”), in the form approved and adopted by the Town Council, from time to time. As part of the application and application process, an applicant for a license will be required to provide:

(1) General information about the applicant, applicant's business, and the nature of applicant's proposed door-to-door solicitation;

(2) The name of every employee and representative of the applicant who may participate in door-to-door solicitation in the town; and

(3) A limited criminal history of the applicant and of each employee and representative of the applicant who may participate in door-to-door solicitation in the town.

(C) Upon approval of an application by the Town Police Department and payment of all requisite fees, a license and non-transferable identification card will be issued to the applicant and non-transferable identification cards will be issued to each employee and representative of the applicant who may participate in door-to-door solicitation in the town.

(D) An application for a license will be denied if not complete when submitted or if all requisite information to be included as a part of or along with the application is not submitted. An application will be denied unless the information provided confirms that vendor and every employee and agent of vendor listed on vendor's application have no felony or misdemeanor conviction, within 15 years of vendor's application date, for a crime of dishonesty, fraud, theft, and/or moral turpitude. The decision as to whether an application is approved or denied shall be made by the Town Police Department within seven days from the date the application is submitted.

(E) A vendor, and each of vendor's employees and agents, to whom a proper license and identification cards have been issued, shall openly display upon his or her person the identification card, at all times, while engaged in door-to-door solicitation in the town.

(F) As a condition of the issuance of a license, an applicant shall, at the time the application is submitted, pay to the town a non-refundable license fee in the amount of \$25, for a ten-day license, or \$75 for a 90-day license, plus \$3 for each identification card requested.

(Ord. 2015-5, passed 7-20-2015) Penalty, see § 111.99

§ 111.03 RESTRICTIONS.

(A) Door-to-door solicitation in the town shall be permitted only between the hours of 10:00 a.m. and 8:00 p.m.

(B) A license, and all related identification cards, shall be valid for ten or 90 calendar days, as the case may be, as determined by the license fee paid, from the date the license or identification card is issued.

(C) The vendor, and vendor's employees and agents, shall comply with all applicable federal, state, and local laws and regulations while engaging in door-to-door solicitation. The issuance of a license and identification card does not authorize a vendor or any of the vendor's employees and agents to disregard no trespassing and no solicitation signs or other lawful demands to not enter on to private property.

(Ord. 2015-5, passed 7-20-2015) Penalty, see § 111.99

§ 111.04 LICENSE REVOCATION.

(A) The Town Police Department shall revoke all licenses and identification cards relating to a vendor upon a determination of one or more of the following:

(1) The vendor's application contains false or misleading information;

(2) The vendor or any of the vendor's employees or agents was, within 15 years prior to the date of vendor's application, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft, and/or moral turpitude;

(3) The vendor or any of the vendor's employees or agents has violated this section or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft, and/or moral turpitude after the issuance of but prior to the expiration date of the applicable license and/or identification card;

(4) Vendor or any of the vendor's employees or agents has failed to properly display his or her identification card while engaged in door-to-door solicitation; and/or

(5) Two or more written and sworn complaints have been delivered to the Town Police Department regarding allegedly untruthful or illegal conduct concerning the vendor or vendor's employees or agents during his or her door-to-door solicitation.

(B) The vendor, by personal service or by first class mail addressed to the vendor at the vendor's address, as it appears in the application, shall be notified of any revocation of a license or identification card along

with the reasons for the revocation.

(C) A vendor, within 20 days from the date of receipt of notice of revocation of a license or identification card, may, by written request delivered to the Town Council President, appeal the revocation to the Town Council (“Council”). If a timely appeal is not made, the revocation becomes final. If a timely appeal is made, the Council shall hear the appeal at a public hearing which shall begin no more than 20 days from the date of receipt of the appeal request by the Town Council President. The Council shall issue its written final decision no more than ten days after the conclusion of the hearing.

(D) No application, license, or identification card fees shall be returned or refunded upon the revocation of a license and/or identification card issued pursuant to this section, all such monies being deemed forfeited. (Ord. 2015-5, passed 7-20-2015)

§ 111.05 EXCEPTIONS.

“Professional solicitors”, as that term is defined in I.C. 23-7-8-1, are not subject to the provisions of this subchapter, but are expected to register with the state and otherwise comply with I.C. 23-7-8 et seq. (Ord. 2015-5, passed 7-20-2015) Penalty, see § 111.99

§ 111.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any vendor and/or any employee or agent of a vendor who engages in door-to-door solicitation in violation of §§ 111.01 through 111.05 shall be subject to a fine of \$50 for each day, or partial day, during which the violation exists.

(2) The town may seek a temporary and/or permanent restraining order against any vendor and/or any employee or agent thereof in any court of competent jurisdiction with regards to §§ 111.01 through 111.05.

(3) The town’s remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under §§ 111.01 through 111.05 or otherwise.

(4) To the full extent permitted by law, the town may collect from a violator of §§ 111.01 through 111.05 the town’s attorney fees, court costs, litigation expenses, and all other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

(Ord. 2015-5, passed 7-20-2015)

[RESERVED]

Chapter

150. BUILDING REGULATIONS

151. COMPREHENSIVE PLAN

152. FLOOD HAZARD AREAS

153. ZONING

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 State Building Code adopted by reference

150.02 State enforcement statutes adopted by reference

Unsafe Buildings

150.15 Statutes adopted

150.16 Definitions

150.17 Enforcement authority

150.18 Hearing authority

150.19 Unsafe building

150.20 Standards for reconstruction, alteration, repair, or demolition

150.21 Compliance required

150.22 Unsafe Building Fund

GENERAL PROVISIONS

§ 150.01 STATE BUILDING CODE ADOPTED BY REFERENCE.

Pursuant to the authority granted under I.C. 22-13-2-3, the town hereby adopts by reference the State Building Code, contained in 675 I.A.C. 13-2.6-1 et seq., including any future amendments.

Statutory reference:

Authority to adopt future building code amendments by reference, see I.C. 22-13-2-3

§ 150.02 STATE ENFORCEMENT STATUTES ADOPTED BY REFERENCE.

(A) Pursuant to the authority granted under I.C. 36-7-9-3, the town hereby adopts by reference I.C. 36-7-9, pertaining to enforcement of building standards.

(B) The enforcement authority responsible for the administration of the statutes adopted under this section shall be the town executive, or such other executive department as may be established or designated by ordinance.

(C) For purposes of this section, **SUBSTANTIAL PROPERTY INTEREST** shall have the same meaning as set forth in I.C. 36-7-9-2.

UNSAFE BUILDINGS

§ 150.15 STATUTES ADOPTED.

(A) I.C. 36-7-9-1 through 36-7-9-28, as amended, are hereby adopted by reference as the town's Unsafe Buildings and Premises Law.

(B) All proceedings within the town for the inspection, repair, and removal of unsafe buildings and/or premises shall be governed by said law and the provisions of this subchapter.

(C) In the event that provisions of this subchapter and provisions of I.C. 36-7-9-1 through 36-7-9-28 conflict, then the provisions of the state statute shall control.

(Ord. 2012-001, passed 6-4-2012)

§ 150.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In addition to the definitions provided for in the state statute, the following definitions shall apply to this subchapter.

ENFORCEMENT AUTHORITY. The Zoning Administrator for the town.

HEARING AUTHORITY. The three persons to be appointed by, and serve at the pleasure of, the Town Council.

SUBSTANTIAL PROPERTY INTEREST. The definition set forth in I.C. 36-7-9-2 is hereby incorporated by reference, as if copied in full.

UNSAFE BUILDING. The definitions set forth in I.C. 36-7-9-4 are hereby incorporated by reference, as if copied in full.

(Ord. 2012-001, passed 6-4-2012; Ord. 2015-001, passed 1-5-2015)

§ 150.17 ENFORCEMENT AUTHORITY.

The enforcement authority is hereby authorized to administer and proceed under the provisions of this subchapter in the inspection of buildings and/or premises, and in ordering the repair and/or removal of any buildings or premises found to be unsafe as specified in I.C. 36-7-9-4, as amended, or as specified hereinafter.

(Ord. 2012-001, passed 6-4-2012)

Statutory reference:

Type of actions permitted under orders of the enforcement authority, see I.C. 36-7-9-5

§ 150.18 HEARING AUTHORITY.

(A) The hearing authority is hereby authorized to conduct hearings in accordance with I.C. 36-7-9-7.

(B) Persons appointed by the Town Council to serve as the hearing authority for the town's Unsafe Buildings and Premises Law shall serve for an indefinite term, without regard to political affiliation, and may resign or be removed at any time.

(C) All references to hearing authority in this subchapter or in the state code, for purposes of the town, shall refer to those persons appointed by the Town Council to serve as the hearing authority.

(D) Action by the hearing authority shall be valid upon vote of any two members, voting together, at any meeting duly called.

(Ord. 2012-001, passed 6-4-2012; Ord. 2015-001, passed 1-5-2015)

§ 150.19 UNSAFE BUILDING.

(A) The definition of “unsafe buildings and unsafe premises” contained in I.C. 36-7-9-4 is supplemented as follows in division (B) below, to provide minimum standards for building conditions and/or maintenance within the jurisdiction of the town.

(B) Any building, structure, and/or premises that has any or all of the unsafe conditions or defects described hereinafter shall be deemed an unsafe building and/or unsafe premises, provided that such condition(s) or defect(s) exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

(1) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not arranged as required so as to be in compliance with the applicable State Building Code then in force;

(2) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for buildings of similar structure, purpose, or location as established by the applicable State Building Code then in force;

(3) Whenever any portion of a building, structure, and/or premises has been damaged by fire, earthquake, wind, flood, or any other cause to such extent that the structural strength or stability thereof is materially less than it was prior to catastrophe and less than the minimum requirements for new building codes of similar structure, purpose, or location, as established by the applicable State Building Code then in force;

(4) Whenever any portion, member, or appurtenance of any building or structure is likely to fail to become detached or dislodged or to collapse and thereby injure persons or damage property;

(5) Whenever any portion of a building or structure or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not anchored, attached, or fashioned in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings or similar structure, purpose, or location, without exceeding the working stresses permitted for such buildings as established by the applicable State Building Code then in force;

(6) Whenever any portion of a building or structure has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction;

(7) Whenever any building or structure, or any portion thereof, is likely to partially or completely collapse because of: dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; any other cause;

(8) Whenever, for any reason, any building, structure, or premises, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(9) Whenever the exterior walls or vertical structural members of any building or structure lift, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall beside the middle one-third of the base;

(10) Whenever any building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its supporting members enclosing outside walls or coverings;

(11) Whenever any building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children or freely accessible to persons without a substantial property interest;

(12) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to any building or structure provided by building regulations of the town or any law or ordinances of the state or county relating to the condition, location, or structure of buildings;

(13) Whenever any building or structure which, whether or not erected in accordance with all applicable

laws and ordinances, has any non-supporting part, member, or portion less than 50% or in any supporting part, member, or portion less than 66% of the strength, fire-resisting qualities or characteristics, weather-resisting qualities or characteristics required by law in the case of a newly constructed building of the like, area, height, and occupancy in the same location;

(14) Whenever any building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, default, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such a condition that it is likely to cause sickness or disease;

(15) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure; or

(16) Whenever any building or structure is abandoned for a period in excess of six months and is deemed to constitute an attractive nuisance or a hazard to the public.

(Ord. 2012-001, passed 6-4-2012)

§ 150.20 STANDARDS FOR RECONSTRUCTION, ALTERATION, REPAIR, OR DEMOLITION.

All work for the reconstruction, alteration, repair, or demolition of any building, structure, and/or premises shall be performed in a good, workmanlike manner, according to acceptable standards and practices in the trade. The provisions of the rules, regulations, and statutes pertaining to construction of one- and two-family dwellings published by the Fire Prevention and Building Safety Commission shall be the accepted standard and acceptable practice for all matters covered by this subchapter or orders issued pursuant to this subchapter by the enforcement authority.

(Ord. 2012-001, passed 6-4-2012) Penalty, see § 10.99

§ 150.21 COMPLIANCE REQUIRED.

No person, firm, or corporation, whether it is owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building, structure, or premises, or cause or permit the same to be done contrary to, or in violation of, any of the provisions of this subchapter or any order issued pursuant to this subchapter by the enforcement authority.

(Ord. 2012-001, passed 6-4-2012) Penalty, see § 10.99

§ 150.22 UNSAFE BUILDING FUND.

(A) The enforcement authority shall establish in its operating budget a fund designated as the Unsafe Building Fund (hereinafter referred to as the "Fund").

(B) The Fund may receive appropriations from the Town Council or any other governmental unit, as well as any funds received from settlements or obligations, judgments, proceeds of bond money received from civil penalties, or other sources permitted under I.C. 36-7-9-14.

(C) The Fund shall be used for any and all costs incurred by the enforcement authority and/or the hearing authority, its agents or assigns, including, but not limited to, costs incurred under I.C. 36-7-9-14(c).

(D) The enforcement authority shall prepare an annual report to be filed with the Town Council of the town reporting the source and use of all monies within the Fund.

(Ord. 2012-001, passed 6-4-2012)

§ 150.23 BIDS AND CONTRACTS.

It shall be the responsibility of the Board of Public Works and Safety to administer any bids for demolition contracts awarded pursuant to this subchapter.

(Ord. 2012-001, passed 6-4-2012)

CHAPTER 151: COMPREHENSIVE PLAN

Section

151.01 Town approves final document related to Comprehensive Plan

§ 151.01 TOWN APPROVES FINAL DOCUMENT RELATED TO COMPREHENSIVE PLAN.

The town's Comprehensive Plan is adopted by reference, and available for public inspection at the town's office during normal business hours.

(Res. 2011-1, passed 4-5-2011)

CHAPTER 152: FLOOD HAZARD AREAS

Section

General Provisions

- 152.01 Statutory authorization
- 152.02 Findings of fact
- 152.03 Statement of purpose
- 152.04 Objectives
- 152.05 Definitions
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Administration

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Flood Hazard Reduction

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- 152.60 Designation of Variance and Appeals Board
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- 152.62 Variance procedures
- 152.63 Conditions for variances
- 152.64 Variance notification
- 152.65 Historic structure
- 152.66 Special conditions

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The state legislature has, in I.C. 36-7-4, granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following floodplain management regulations.

(Ord. 2014-9, passed 9-1-2014)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases

in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately floodproofed, or otherwise unprotected from flood damages.

(Ord. 2014-9, passed 9-1-2014)

§ 152.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage;

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

(F) Make federal flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 2014-9, passed 9-1-2014)

§ 152.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains; and

(F) 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 minimize flood blight areas.

(Ord. 2014-9, passed 9-1-2014)

§ 152.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1% ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the **1% ANNUAL CHANCE FLOOD**. See **REGULATORY FLOOD**.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR, and Zone A99 on a FIRM. The definitions are presented below.

(1) **ZONE A.** Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

(2) **ZONE AE AND A1-A30.** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

(3) **ZONE AO.** Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(4) **ZONE AH.** Areas subject to inundation by 1% annual chance shallow flooding (usually areas of

ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(5) **ZONE AR.** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

(6) **ZONE A99.** Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

BASEMENT. The portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See **STRUCTURE**.

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great.

CRITICAL FACILITIES include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

DEVELOPMENT.

- (1) Any human-made change to improved or unimproved real estate including, but not limited to:
 - (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
 - (b) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
 - (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (d) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;
 - (e) Mining, dredging, filling, grading, excavation, or drilling operations;
 - (f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See **FLOOD**.)

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA. (See **FREEBOARD**.)

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The **FLOODPLAIN** includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. **FLOODPLAIN MANAGEMENT REGULATIONS** are also referred to as **FLOODPLAIN REGULATIONS**, **FLOODPLAIN ORDINANCE**, **FLOOD DAMAGE PREVENTION ORDINANCE**, and **FLOODPLAIN MANAGEMENT REQUIREMENTS**.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the

structure, together with attendant utilities and sanitary facilities, is water-tight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

HARDSHIP. The exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial **HARDSHIP** alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional **HARDSHIP**. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. Any structures individually listed on the National Register of Historic Places or the State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include **ICC** coverage.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The **LFD** initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below.

(1) **LETTER OF MAP AMENDMENT (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A **LOMA** is only issued by FEMA.

(2) **LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(3) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A **LOMR-F** provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest elevation described among the following:

- (1) The top of the lowest level of the structure;

- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;
- (4) The top of the first floor of a structure elevated on pilings or pillars; and
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

(b) The total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is twofold: to protect people and structures; and to minimize the cost of disaster response and recovery.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NEW CONSTRUCTION. Any structure for which the start of construction commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across, or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the State Department of Natural Resources and the Federal Emergency Management Agency. The **REGULATORY FLOOD** elevation at any location is as defined in § 152.07. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD, 1% ANNUAL CHANCE FLOOD, and 100-YEAR FLOOD.**

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

SECTION 1316. The section of the National Flood Insurance Act of 1968, being 42 U.S.C. §§ 4001 et seq., as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The **SFHAS** of the town are generally identified as such on the county and incorporated areas Flood Insurance Rate Map dated October 2, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO.)

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.

SUSPENSION. The removal of a participating community from the NFIP because the community has not

enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in **VIOLATION** until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded **X ZONES** shown on recent FIRMs (B Zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded **X ZONES** (C Zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. See definition for **A ZONE**.

ZONE B, C, AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (**ZONE X** is used on new and revised maps in place of **ZONES B AND C**.)

(Ord. 2014-9, passed 9-1-2014)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the town. This includes the extraterritorial jurisdiction area adjacent to the town under the town's zoning and building regulations.

(Ord. 2014-9, passed 9-1-2014)

§ 152.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

(A) This chapter's protection standard is the regulatory flood.

(B) The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the town shall be as delineated on the 1% annual chance flood profiles in the flood insurance study of the county and incorporated areas and the corresponding Flood Insurance Rate Map dated October 2, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the town, delineated as an A Zone on the county and incorporated areas Flood Insurance Rate Map dated October 2, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the State Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the State Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the State Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a letter of final determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(Ord. 2014-9, passed 9-1-2014)

§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2014-9, passed 9-1-2014)

§ 152.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(Ord. 2014-9, passed 9-1-2014)

§ 152.12 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2014-9, passed 9-1-2014)

§ 152.13 WARNING AND DISCLAIMER FOR LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the town, the State Department of Natural Resources, or the state for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 2014-9, passed 9-1-2014)

§ 152.14 EFFECTIVE DATE.

This chapter was in full force and effect on October 2, 2014.

(Ord. 2014-9, passed 9-1-2014)

ADMINISTRATION

§ 152.25 DESIGNATION OF ADMINISTRATOR.

The Town Council hereby appoints the DPW Manager to administer and implement the provisions of this chapter and is herein referred to as the “Floodplain Administrator” or the “Administrator”.

(Ord. 2014-9, passed 9-1-2014)

§ 152.26 PERMIT PROCEDURES.

(A) Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing.

(B) Specifically, the following information is required.

(1) *Application stage.*

- (a) A description of the proposed development;
- (b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- (c) A legal description of the property site;
- (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and
- (g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 152.27(B)(6) for additional information.)

(2) *Construction stage.*

(a) Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

(b) Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) *Finished construction.* Upon completion of construction, an elevation certification which depicts the as-built lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied;

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;

(3) Ensure that construction authorization has been granted by the State Department of Natural Resources for all development projects subject to §§ 152.44 and 152.46(A) of this chapter, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment);

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the

floodplain development permit;

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway;

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and as-built elevation and floodproofing data for all buildings constructed subject to this chapter;

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(10) Review certified plans and specifications for compliance;

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 152.26;

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 152.26; and

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the flood protection grade reference mark at the development site; the second upon the establishment of the structure's footprint/ establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized town officials shall have the right to enter and inspect properties located in the SFHA.

(C) (1) Upon notice from the Floodplain Administrator, work on any building, structure, or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(2) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(D) (1) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(Ord. 2014-9, passed 9-1-2014)

FLOOD HAZARD REDUCTION

§ 152.40 GENERAL STANDARDS.

In all SFHAs and known flood prone areas, the following provisions are required.

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating

within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter.

(J) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(K) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.

(1) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(2) Under certain circumstances, the excavation may be allowed to take place outside of, but adjacent to, the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled.

(3) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater.

(4) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(5) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater.

(6) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(7) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this subchapter.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.41 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required.

(A) *General.* In addition to the requirements of § 152.40 all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any structure having a floor area greater than 400 square feet;

(2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days;

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;

(6) Reconstruction or repairs made to a repetitive loss structure; and/or

(7) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(B) *Residential structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (D) below.

(C) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (D) below. Structures located in all A Zones may be floodproofed in lieu of being elevated if done in accordance with the following.

(1) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are water-tight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 152.27(B)(12).

(2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(D) *Elevated structures.* New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(1) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);

(2) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher;

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

(4) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);

(5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms;

(6) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade;

(7) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as a typical foundation air vent device;

(8) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of this division (D). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the County Recorder; and

(9) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished, or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the County Recorder.

(E) *Structures constructed on fill.* A residential or non-residential structure may be constructed on a permanent land fill in accordance with the following.

(1) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the standard or modified proctor test. The results of the test showing compliance shall be retained in the permit file.

(2) The fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(6) The fill shall be composed of clean granular or earthen material.

(F) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements.

(1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

(a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than 180 days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes as stated earlier in this section.

(G) *Accessory structures.* Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(1) Shall not be used for human habitation;

(2) Shall be constructed of flood resistant materials;

(3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(4) Shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or

above the FPG; and

(6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(H) *Above ground gas or liquid storage tanks.* All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.42 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(Ord. 2014-9, passed 9-1-2014)

§ 152.43 CRITICAL FACILITY.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 2014-9, passed 9-1-2014)

§ 152.44 STANDARDS FOR IDENTIFIED FLOODWAYS.

(A) Located within SFHAs, established in § 152.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the State Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit for construction in a floodway from the State Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, paving, and the like undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the State Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the State Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the State Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the State Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this subchapter have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the State Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed, which acting alone or in combination with existing or future

development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This **ADVERSE AFFECT** is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(D) For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 C.F.R. § 65.12.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.45 STANDARDS FOR IDENTIFIED FRINGE.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in this subchapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.46 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.

(A) *Drainage area upstream of the site is greater than one square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the State Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended flood protection grade has been received from the State Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the State Department of Natural Resources and the provisions contained in this subchapter have been met.

(B) *Drainage area upstream of the site is less than one square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this subchapter have been met.

(C) *Total cumulative effect.* The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than fourteen-hundredths of one foot and shall not increase flood damages or potential flood damages.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

§ 152.47 STANDARDS FOR FLOOD PRONE AREAS.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per this subchapter.

(Ord. 2014-9, passed 9-1-2014) Penalty, see § 152.99

VARIANCE PROCEDURES

§ 152.60 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(Ord. 2014-9, passed 9-1-2014)

§ 152.61 DUTIES OF VARIANCE AND APPEALS BOARD.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or

determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the County Circuit Court. (Ord. 2014-9, passed 9-1-2014)

§ 152.62 VARIANCE PROCEDURES.

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (A) The danger of life and property due to flooding or erosion damage;
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (C) The importance of the services provided by the proposed facility to the community;
- (D) The necessity to the facility of a waterfront location, where applicable;
- (E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (F) The compatibility of the proposed use with existing and anticipated development;
- (G) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and
- (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Ord. 2014-9, passed 9-1-2014)

§ 152.63 CONDITIONS FOR VARIANCES.

- (A) Variances shall only be issued when there is:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (B) No variance for a residential use within a floodway subject to §§ 152.44 or 152.46(A) may be granted.
- (C) Any variance granted in a floodway subject to §§ 152.44 or 152.46(A) will require a permit from the State Department of Natural Resources.
- (D) Variances to the provisions for flood hazard reduction of § 152.41 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the State Register of Historic Sites and Structures.
- (G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See § 152.64.)
- (H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the State Department of Natural Resources upon request.

(See § 152.64.)

(Ord. 2014-9, passed 9-1-2014)

§ 152.64 VARIANCE NOTIFICATION.

- (A) Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(B) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

(Ord. 2014-9, passed 9-1-2014)

§ 152.65 HISTORIC STRUCTURE.

Variations may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 2014-9, passed 9-1-2014)

§ 152.66 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in this subchapter, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 2014-9, passed 9-1-2014)

§ 152.99 PENALTY.

(A) Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter.

(B) All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the zoning code for the town.

(C) All violations shall be punishable by a fine not exceeding \$300 per day.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(3) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 2014-9, passed 9-1-2014)

CHAPTER 153: ZONING

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GENERAL PROVISIONS

§ 153.01 AUTHORITY.

This chapter is adopted pursuant to I.C. 36-7-4.

(Ord. passed - -1989)

§ 153.02 PURPOSE.

(A) This chapter is adopted for the following purposes:

- (1) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- (2) Lessening or avoiding congestion in public ways;
- (3) Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- (4) Otherwise accomplishing the purposes of I.C. 36-7-4; and
- (5) Implementing the Comprehensive Plan of the town.

(B) In order to accomplish these purposes, this chapter does the following:

- (1) Establishes districts for agricultural, commercial, industrial, residential, special, or unrestricted uses and any subdivision or combination of these uses;
- (2) Regulates how real property is developed, maintained, and used, including the following:
 - (a) Requirements for the area of the front, rear, and side yards, courts, other open spaces, and total lot area;
 - (b) Requirements for site conditions, signs, and non-structural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
 - (c) Provisions for the treatment of uses, structures, or conditions that are in existence at the time this chapter takes effect;
 - (d) Restrictions on development in areas prone to flooding;
 - (e) Requirements to protect the historic and architectural heritage of the community;
 - (f) Requirements for structures, such as location, height, area bulk, and floor space;
 - (g) Restrictions on the kind and intensity of uses;
 - (h) Performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;
 - (i) Standards for population density and traffic circulation; and
 - (j) Other provisions that are necessary to implement the purposes of this chapter.
- (3) In districts containing areas with special or unusual development problems or needs for compatibility, requires that the Plan Commission approve development plans for consistency with general

development standards;

(4) Provides for planned unit development; and

(5) Establishes in which districts the subdivision of land may occur.

(Ord. passed - -1989)

§ 153.03 JURISDICTION.

This chapter shall apply throughout the geographic areas within the jurisdiction of the Plan Commission of the town as established by resolution of the Plan Commission and included within the Comprehensive Plan of the town. This includes the incorporated area of the town and the extraterritorial jurisdiction in the county.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

§ 153.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future tense; the singular includes the plural, and the plural includes the singular. The word may is permissive; shall is mandatory. Words not defined in this chapter shall be construed to have their customary meanings.

ACCESSORY BUILDING. A detached, subordinate building, located on the same lot with and clearly and customarily incidental to the main building.

ACCESSORY USE. A use clearly subordinate to the main use. In no case shall an **ACCESSORY USE** dominate, in area, extent, or purpose, the principal lawful use of the property.

ADULT USE. Any establishment consisting of, including, or having the characteristics of any or all of the following.

(1) **ADULT BOOKSTORE** or **ADULT VIDEO STORE.** An establishment having more than 20% of its stock-in-trade, floor area, or display area used for the sale, rental, or trade of books, magazines, publications, tapes, films, or any other form of media that is distinguished or characterized by the emphasis on sexually oriented material depicting, describing, or relating to sexual activities or anatomical genital areas.

(2) **ADULT CABARET.** An establishment, either with or without a liquor license, offering sexually oriented dancing or other live entertainment that may include persons who appear in a state of nudity or semi nudity.

(3) **ADULT THEATER.** A theater or similar venue, either indoors or outdoors, that regularly features motion pictures, films, live performances, or other displays of or by persons who appear nude or partially or that present content that depicts graphically relates to sexual activities.

(4) **ADULT NOVELTY SHOP.** An establishment offering, for sale or rent, items from any two of the following categories: sexually oriented books, magazines, and videos; leather goods marketed or presented in a context to suggest their use for sexual activities; sexually oriented toys and novelties; or video viewing booths; or an establishment that advertises or holds itself out in any forum as a sexually oriented business.

AGRICULTURAL USES. Farming activities such as growing of field crops, truck crops, horticulture, forestry, plant nurseries, greenhouses, or grazing of animals. Uses which are listed as special exceptions in districts where **AGRICULTURAL USES** are permitted, such as confined feeding operations, are not included.

ALLEY. A public way affording only secondary means of access to abutting property, not intended for general traffic circulation.

ALTERATION. As applied to a building, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing height, or the moving from one location or position to another.

ANIMAL HUSBANDRY. The raising, breeding, and maintaining of animals such as cattle, swine, sheep, goats, rabbits, fowl, and fish; fur-bearing animals for pelts; work animals for use or sale, and apiaries; not including confined feeding.

ATTACHED DWELLING. A one-family dwelling which shall be constructed as one of a sequence of three or more one-family dwellings attached horizontally by common fireproof party walls.

AUTOMOBILE. Passenger cars, pick-up trucks, recreational vehicles, travel trailers, motorcycles, mopeds, and boats.

AUTOMOBILE REPAIR SHOP. Any premises used for general repairs of motor vehicles including,

without limitation, repair and replacement of engines, drive trains, transmissions, mufflers, brakes, tires, suspensions, and related components frame repairs and body repairs. Such business may include the sale of parts.

AUTOMOBILE SALES, NEW. A franchised retail automobile dealership that is primarily housed in a building and characterized by a mixture of secondary supporting uses; however, the principal use of the property shall be the marketing and display of new automobiles, whether by sale, rental, lease or other commercial or financial means. Secondary supporting uses may include an inventory of vehicles for sale or lease either on-site or at a nearby location of new or used automobiles in operating condition, and on-site facilities for the repair and service of automobiles previously sold, rented, or leased by the dealership as defined under “automobile repair shop” above. No abandoned vehicles shall be stored on the premises.

AUTOMOBILE SALES, USED. A retail business that sells operable, used automobiles. Secondary supporting uses may include the service of automobiles previously sold or traded as defined under “automobile repair shop” above. No automobile salvage or scrap activities shall be permitted and no abandoned vehicles shall be stored on the premises.

AUTOMOBILE SERVICE STATION. Any premises where gasoline, kerosene, diesel fuel, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. Such operation may include sale of tires and automotive accessories to the general public. It may also include the making of minor repairs, but not major repairs as described under the definition for “automobile repair shop” above, and not including the outside storage of inoperable vehicles.

BED AND BREAKFAST. An owner-occupied dwelling containing not more than three separate units which are rented on a nightly basis for periods of one week or less. Meals may or may not be provided.

BILLBOARD. An outdoor advertising sign used to advertise a business, service, or activity sold or available elsewhere than on the premises on which the **BILLBOARD** is located.

BLOCK. An area of land bounded by streets, public or common land, railroad rights-of-way, or by other similar definite limits.

BOARD. The Town Board of Zoning Appeals.

BUILDING (includes STRUCTURE). Any structure having a roof supported by columns or walls for the shelter, enclosure, housing, or protection of persons, animals, or property.

BUILDING HEIGHT. The vertical measure from the finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the **HEIGHT** shall be measured from the average ground level of the grade at the building wall.

BUILDING LINE. A line, usually parallel to the street line and extending between the side lot lines, running along the front of the principal building and along which lot width is measured.

BUILDING SETBACK LINE. A line delineating the minimum allowable distance between a street line or a lot line and a building or structure. For irregularly shaped lots or those with curved lot lines, it shall be measured parallel to the line closest to the street, which forms a side of the largest rectangle that can be inscribed within the lot lines.

CAMPGROUND. A parcel of land used for temporary overnight recreational occupancy in shelters such as seasonal cabins, tents, recreational vehicles, travel trailers, or mobile homes.

CHURCH. A property or structure used by a congregation of persons meeting regularly to hold religious services or worship.

CLUB. A building or facility owned or operated by an organization for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, and open only to members and not to the general public.

COMMERCIAL DEVELOPMENT. A group of commercial uses under unified ownership or control, on one or more parcels of land, such as a shopping center or office park.

COMMON OPEN SPACE. All open space within the boundaries of a development designed and set-aside for use by all residents of the development and not designated as public lands.

CONDITIONAL USE. A use permitted by the Board of Zoning Appeals under the terms set forth in this

chapter.

CONFINED FEEDING. The production, maintenance, and breeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals by means other than grazing. For purposes of this chapter, **CONFINED FEEDING** shall include such operations exceeding the following numbers of animals per acre: four cattle; 20 swine; 700 poultry; ten sheep or goats; four horses.

DAY CARE CENTER. An establishment that offers general care of ten or more children (other than those related to the residents, if in a private home).

DAY CARE HOME. A residence in which the occupant cares for more than five but fewer than ten children unrelated to the occupant.

DEVELOPMENT PLAN. A specific plan of development for a parcel of land, containing the elements required by this chapter.

DWELLING, MULTIFAMILY. A building used primarily as a residence for more than two households, with separate kitchens, baths, and other facilities for each household.

DWELLING, SINGLE-FAMILY. A building used primarily as a residence for one household, containing at least 950 square feet in useable floor area, with at least 60% of the structure being at least 23 feet wide at its narrowest dimension, erected on a permanent perimeter retaining wall or foundation. Structures for temporary lodging, such as motels, hotels, and bed and breakfast operations are excluded from this definition, as are mobile homes, motorhomes, and trailers.

DWELLING, TWO-FAMILY. A building used primarily as a residence for two families, each with a separate kitchen, bath, and other facilities. Such dwelling units may be separated by a common vertical or horizontal wall.

DWELLING UNIT. A building or part of a building providing complete housekeeping facilities for one household.

EASEMENT. An acquired right of use, interest, or privilege in lands owned by another.

EDUCATIONAL USES. Public or private elementary or secondary schools, institutions of higher education, boarding schools, and similar uses.

ESSENTIAL SERVICES. Those land uses which are required in order for the community to provide adequate services to its citizens, including town halls, libraries, public utilities, sanitary landfills, incinerators, parking lots, fire and police stations, cemeteries, correctional institutions, and similar uses. Any such use not operated by a unit of government or by a regulated utility shall not be included in this definition.

FAMILY. An individual or two or more persons related by blood, marriage, or adoption living together in a single-family dwelling; or a group of not more than four persons, who need not be related, living together in a single-family dwelling.

FLOOD or FLOODWATER. The water of any water body that is above the banks and/or outside the channel and banks of such watercourse.

FORESTRY. The clearing or management of woodland areas for the purpose of selling timber, logs, or firewood.

FRONTAGE. The width of a lot measured along the right-of-way line of a street. For irregularly shaped lots or those with curved lot lines, it shall mean the line closest to the street which forms a side of the largest rectangle that can be inscribed within the lot lines.

GARAGE. An accessory building or portion of a principal building designed or used for the parking of temporary storage of motor vehicles and/or recreational vehicles of the occupants in the building to which the **GARAGE** is accessory.

HEALTH CARE USE. A medical, dental, psychological, psychiatric, or other similar clinic or hospital whether public or private.

HOME OCCUPATION. An occupation or gain or support conducted by members of a family residing on the premises and conducted entirely within the dwelling or accessory structure, provided that the use is clearly subordinate to the principal use of the property.

HORTICULTURE. The cultivation of ornamental plants or trees for sale for use in landscaping; orchards.

HOTEL or MOTEL. A building or group of buildings designed for temporary, overnight lodging with or without meals. Such structures may contain a restaurant, banquet halls, ballrooms, meeting rooms, or other

such customary accessory uses.

IMPROVEMENT LOCATION PERMIT. A document that authorizes the proposed construction or alteration of a structure.

JUNKYARD. A lot or a part thereof that is used for the storage, keeping, dismantling, abandonment, or sale of junk, scrap metal, scrap vehicles, scrap machinery, paper, rags, rubber tires, bottles, or other similar items.

KENNEL. Any structure or premises used to board five or more dogs and/or cats six months of age or older.

LOT. A distinct parcel of land described by metes and bounds description or identified as a separate lot on a recorded plat, used, intended to be used, or useable as the site of a principal structure and accessory structures.

LOT, CORNER. A lot at the junction of and fronting on two intersecting streets.

LOT COVERAGE. Area of a lot that is covered by structures, including all accessory structures.

LOT DEPTH. The distances between the front lot line at its intersection with the street and the rear lot line, at right angles to both. For irregular lots, the **LOT DEPTH** is the maximum length, measured between the front and rear lot lines, of the largest rectangle that can be inscribed within the lot lines.

LOT LINE. A boundary line of a lot.

LOT, THROUGH. A lot having frontage on two streets that are parallel, or approximately parallel.

LOT WIDTH. The distance between the side lot lines, measured along the building line.

MOBILE HOME. A transportable dwelling unit larger than 320 square feet in floor area, whether used for a dwelling or other purpose that does not meet the criteria of “dwelling, single-family”.

MOBILE HOME PARK. Property that has been divided into sites, whether for sale or lease, for aggregations of mobile homes on single tracts and may include recreational, office, and other accessory uses.

OPEN SPACE USES. Uses which involve little or no construction of buildings, or paving. Examples include parks, golf courses, sanctuaries for birds or wildlife, campgrounds, and uses of similar intensity.

PERSONAL CONVENIENCE SERVICES. Services such as barber or beauty shops, dry cleaning, dressmaking or tailoring, shoe repair, home appliance repair, and similar uses.

PLAN COMMISSION. The Town Advisory Plan Commission.

PRINCIPAL or MAIN USE. The primary purpose for which a building, structure, and/or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under the provisions of this chapter.

PROFESSIONAL AND BUSINESS SERVICES. Activities such as banking and associated services, financial institutions, real estate, management, tax consultant, engineer, accountant, photographer, lawyer, and medical services.

RECREATIONAL VEHICLE. A temporary dwelling for travel, recreation, and vacation use, including travel trailer, camping trailer, pick-up camper, motor coach, tent trailer, boat, or other vehicular structure mounted on a chassis.

RESEARCH USES. Laboratories, product research, or similar uses.

RESIDENTIAL DEVELOPMENT. The use of property for single- or multifamily development or a combination thereof. It does not include mobile homes or mobile home parks. This definition is distinct from an individual single-family dwelling on a lot meeting the minimum dimensional requirements of the district in which it is located.

RESORT MOTEL or INN. A motel or hotel which features sports or recreational facilities such as golf, tennis, skiing, or horseback riding, or which features a rural setting and is not primarily dependent upon visibility from a highway or overnight accommodations for the traveling public.

RETAIL SALES ESTABLISHMENT. A business conducted entirely within a building, the principal use of which is the display and/or sale of goods, merchandise, and products directly to consumers.

RETIREMENT HOME. An establishment, which provides convalescent or chronic care for the aged or infirm, not including intensive care commonly provided in hospitals.

SIGN. Any display figure, painting, drawing, placard, poster, or other device visible from a public way or parking lot or from off the premises on which it is located which is designed, intended, or used to convey a message, advertise, inform, or direct attention to a person, institution, organization, activity, place, object, or

product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

SIGN, AREA OF. The area within a line drawn around the surface of a sign including all decorations but excluding any supports whether decorative or not. In computing the **AREA OF A SIGN**, the area of all surface used for sign purposes shall be included.

SIGN HEIGHT. The vertical distance measured from the ground at the base of the sign to the highest point of any portion of the sign or supporting structure.

SIGN, OFF-PREMISES. Any sign or advertising device, including a billboard, which advertises a use or activity not located on, or a product not sold nor manufactured on, the lot on which the sign or device is located.

SIGN, OFF-SITE DIRECTIONAL. Any sign giving directions to the location of any use or activity not located upon the property upon which the sign is erected, and which may contain only the name of the use and necessary information giving directions to the use.

SIGN, POLE or HIGH RISE. Any freestanding sign or other sign supported by poles, pipes, braces or frame on the ground, or any sign supported by a roof, wall or other structure when the sign face is located above the elevation of the highest part of the structure to which it is attached.

SIGN, PORTABLE. Any sign not permanently attached to a building or structure of the ground and which is capable of being placed upon various locations. Such **SIGNS** shall include, but are not limited to, A-frame signs, gasoline price signs, temporary announcement signs, trailer signs, balloons, and the like.

STREET. A strip of land that provides the principal means of access to abutting property or other vehicular public right-of-way, other than an alley.

STREET, PRIVATE. A street that is not owned or maintained by or has not been dedicated to the public.

STREET RIGHT-OF-WAY. The area actually owned or dedicated for public use.

STRUCTURE (includes BUILDING). Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

TRANSPORTATION USES. Uses directly related to any mode of vehicular or air transportation, including truck terminals, airports, railway or bus stations, and similar uses.

URBAN AREA. Any incorporated area and all land or lots used for residential purposes where there are at least eight residences within a one-quarter mile square area and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

VARIANCE. An authorization from the Board of Zoning Appeals to use and/or develop property in a manner that does not comply with this chapter.

YARD. A required open space on the same lot with a building, unoccupied and unobstructed by any structure from the surface of the ground upward, except for drives, walks, fences, and customary yard accessories and other structures specifically permitted by this chapter.

YARD, FRONT. The yard between a street line and a line generally parallel thereto drawn through the nearest point of a building, extending between side lot lines. Each yard fronting on a street is a **FRONT YARD**, so that a corner lot has two **FRONT YARDS**. Fronting on an alley is not considered a **FRONT YARD**.

YARD, REAR. A yard extending across the full width of the lot between the principal structure and the rear lot line.

YARD, SIDE. The area between a building and the side lot line, extending from the front yard, or front lot line where not front yard is required, and the rear lot line. The width of the required **SIDE YARD** shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014; Ord. 2015-12, passed 11-2-2015)

§ 153.05 SUBDIVISION OF LAND.

Subdivision of land may occur in any zoning district within the jurisdiction of the Plan Commission of the town.

(Ord. passed - -1989)

§ 153.06 LOCATION IMPROVEMENT PERMIT OR BUILDING PERMIT.

(A) The Zoning Administrator, as the authorized representative of the Plan Commission, shall be responsible for the issuance of an improvement location permit or building permit for any alteration to the condition of land and/or structures including construction, alteration, or additions to buildings, driveways,

parking areas, signs, drainage, area lighting, swimming pools, or any other permanent improvements. Permits must be obtained prior to the start of any construction as required by and pursuant to a separate permit and fee schedule adopted by the Plan Commission from time to time.

(B) Building permits will be valid for a period of one year. One six-month extension may be authorized by the Zoning Administrator if an issue outside the control of the permit holder caused a delay.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.07 COMPLIANCE.

No building may be erected or use established on any property within the jurisdiction of the Plan Commission of the town except in compliance with the terms of this chapter and the State Building Code.

(Ord. passed - -1989) Penalty, see § 153.99

§ 153.08 ZONING MAP.

(A) An official zoning map is hereby adopted and made a part of this chapter.

(B) The official zoning map shall be kept on file in the office of the town's Clerk-Treasurer.

(C) For the purposes of interpretation of the zoning map, the following rules shall apply:

(1) Boundaries shown on the zoning map as approximately following the centerlines of a highway, street, alley, railroad, water course, or body of water shall be construed to actually follow the centerlines thereof;

(2) Where the street layout on the ground varies from the street layout as shown on the official zoning map, the Plan Commission may apply the designations shown on the mapped streets in such a way as to carry out the intent and purposes of this chapter;

(3) Boundaries indicated on the zoning map as approximately following shorelines shall be construed to actually follow such shore lines, and in the event of change in the shore line, such boundaries shall be construed as moving with the actual shore line;

(4) Boundaries indicated on the zoning map as approximately following platted lot lines shall be construed as following such lot lines;

(5) Boundaries indicated on the zoning map as approximately following jurisdictional lines or section lines shall be construed as actually following such limits or lines; and

(6) In any other case where the location of the zoning line is unclear, the Plan Commission shall make a determination as to the location of such zoning line.

(Ord. passed - -1989; Ord. 2015-12, passed 11-2-2015)

§ 153.09 INTERPRETATION.

(A) The provisions of this chapter shall be the minimum requirements, adopted for the purposes stated herein.

(B) Except as expressly provided herein, this chapter shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or town ordinance; provided that where this chapter is in conflict with or imposes a greater restriction than imposed or required by any such existing town ordinance, the provisions of this chapter shall control.

(C) Any use not expressly permitted in this chapter shall be a non-permitted use. The Plan Commission, on its own or upon request by the Town Council, the Zoning Administrator, or any third party, may interpret this chapter and decide whether a described use is permitted or the meaning, effect, or applicability of other provisions. Any such interpretation shall be made in a manner consistent with the intent and purposes of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

§ 153.10 ENFORCEMENT.

(A) This chapter shall be enforced by the Plan Commission, and/or its duly appointed agent, pursuant to adopted enforcement procedures.

(B) After the effective date of this chapter, no land shall be used and no building, structure, or sign shall be used or erected unless it conforms to the provisions of this chapter and the State Building Code. No improvement location permit, building permit, or occupancy permit shall be issued until it has been determined that said permit is in conformity with the provisions of this chapter and the State Building Code. Uses and structures lawfully existing on the effective date of this chapter shall be permitted to continue under

the provisions of § 153.54.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

§ 153.11 COMPLAINTS; VIOLATIONS.

(A) Any person may file with the Plan Commission a written complaint alleging a violation of this chapter. Upon its receipt of a written complaint, the Plan Commission, or its duly appointed agent, will investigate in a timely manner. If, based on its investigation, the Plan Commission concludes that a violation has occurred, the Plan Commission shall serve the person or persons believed to have violated this chapter with a written notice of violation and an order to correct the violation within a reasonable period of time, not to exceed 60 days. If the violation is not corrected within the time allotted, the Plan Commission may issue a civil penalty or fine. The Plan Commission may, by rule, delegate the duties under this section to an individual, department, or agency.

(B) Any building erected, raised, or converted, or land or premises used in violation of any provision of this chapter or the State Building Code is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.

(C) The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for injunction in the Circuit or Superior Court of the county to restrain any person, firm, corporation, or governmental unit from violating the provisions of this chapter and may seek to recover from any party against whom an injunction is sought costs of the action and reasonable attorney's fees.

(D) The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for remedial action directing a property owner and/or occupant to remove a structure erected in violation of this chapter, or to bring it into compliance with this chapter, and may seek to recover from any party against whom an injunction is sought costs of the action and reasonable attorney's fees.

(E) Nothing herein contained shall prevent the Town Council, the Plan Commission, Board of Zoning Appeals, or any designated official from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.12 BOARD OF ZONING APPEALS.

(A) *Establishment.* A Board of Zoning Appeals is hereby established, which shall consist of five members representing the town and the land within its extraterritorial jurisdictions as follows:

(1) Three citizen members appointed by the President of the Town Council, one of whom shall be a member of the Plan Commission and two of whom shall not be members of the Plan Commission;

(2) One citizen member appointed by the Town Council, who shall not be a member of the Plan Commission; and

(3) One citizen member appointed by the Plan Commission, other than the Plan Commission member appointed by the President of the Town Council, who shall be one of the two members of the Plan Commission who resides within the unincorporated area over which extraterritorial jurisdiction is exercised.

(B) *Other elective or appointive office.* Other than the two Plan Commission members, no member of the Board of Zoning Appeals may hold other elective or appointive office in municipal, county, or state government.

(C) *Organization.*

(1) The terms of the initial members of the Board of Zoning appeals shall be as follows.

(a) One member appointed by the Town Council President shall have an initial term of one year.

(b) One member appointed by the Town Council President shall have an initial term of two years.

(c) The Plan Commission member appointed by the Town Council President shall have an initial term of the lesser of three years or the remainder of that person's term on the Plan Commission.

(d) The member appointed by the Town Council shall have an initial term of four years.

(e) The member appointed by the Plan Commission shall have an initial term of the lesser of two years or the remainder of that person's term on the Plan Commission.

(2) After the initial terms have expired, all appointments, except for the member who resides in the unincorporated area of extraterritorial jurisdiction, shall be for four years, expiring on the first Monday of

January of the fourth year after appointment, except that the Plan Commission members may serve only for the remainder of their terms as members of the Plan Commission. The term of the member who resides in the unincorporated area of extraterritorial jurisdiction shall not exceed two years.

(3) In the event a vacancy occurs prior to the expiration of a member's term (including a Plan Commission member whose remaining term on the Plan Commission is less than four years), the appropriate appointing authority shall appoint another member meeting the qualifications to complete the unexpired term.

(4) Members are eligible for reappointment.

(D) *Alternate members.*

(1) The Town Council President may appoint two alternate members, and the Town Council and the Plan Commission each may appoint one alternate member to the Board of Zoning Appeals, for a total of four alternate members.

(2) Alternate members shall have the same qualifications as regular appointees: the Town Council President may appoint one citizen member of the Plan Commission and one citizen member who is not a member of the Plan Commission as alternates; the Town Council may appoint one citizen member who is not a member of the Plan Commission as an alternate; and the Plan Commission may appoint the other member who resides in the unincorporated area as an alternate member.

(3) Alternate members shall have all of the rights and privileges of members of the Board of Zoning Appeals and may participate in the discussion and evaluation of petitions before the Board.

(4) An alternate member may serve as a voting member of the Board of Zoning Appeals when the regular member for whom he or she is alternate abstains or disqualifies himself or herself from participating in consideration of a matter before the Board.

(E) *Conflict of interest.*

(1) A member of the Board of Zoning Appeals shall not participate in a hearing or decision of the Board concerning a zoning matter if the member is biased or prejudiced or otherwise unable to be impartial or has a direct or indirect financial interest in the outcome of the hearing or the decision.

(2) In such an instance, the Board shall enter in its records:

(a) The fact that a regular member has such a disqualification; and

(b) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

(F) *Removal of a member.* The appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the member at his or her residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of the county.

(G) *Promulgation of rules.*

(1) The Board of Zoning Appeals shall adopt rules of procedure concerning the filing of appeals, applications for variances and conditional uses, giving of notice, conduct of hearings, and other such matters as may be necessary to carry out the duties of the Board under this chapter.

(2) An affirmative vote by a majority of the membership of the Board of Zoning Appeals shall be required to approve or deny a petition before the Board.

(3) Any petition approved by the Board of Zoning Appeals, unless otherwise stipulated, shall expire and become void one year after the date of its granting unless the variance or conditional use has been substantially put into place or an extension has been granted by the Board.

(H) *Stays pending appeals.*

(1) An appeal shall stay all proceeding in furtherance of the action appealed from, unless the administrative official or body from whom the appeal is taken certifies to the Board after the notice of appeal is filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, the proceeding or work shall not be stayed except by a restraining order which may be granted by the Board of Zoning Appeals or by the Circuit or Superior Court of the county, and such notice shall be given to the administrative official or body from whom the appeal is taken and to the owner of the premises affected.

(2) After the person in charge of the work on the premises affected has received notice that an appeal has been filed with the Board of Zoning Appeals, the designated administrative official or body shall have full power to order such work discontinued or stayed, and to call upon the police power of the town to give full force and effect to the order.

(I) *Appeals of administrative decisions.*

(1) The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is error in any of the requirements, decisions, or determinations made by an administrative official or body charged with the administration and enforcement of this chapter.

(2) An appeal concerning interpretation or administration of this chapter may be taken by any person aggrieved by any decision of the administrative official or body charged with the administration and enforcement of this chapter.

(3) An appeal shall specify the grounds thereof and shall be filed within 30 days of the decision alleged to be in error. The administrative official or body from whom the appeal is taken shall forthwith transmit to the Board all documents, plans, and papers constituting the record of the action from which the appeal is taken.

(J) *Conditional uses.*

(1) The Board of Zoning Appeals shall hear and decide only such conditional uses as the Board is specifically authorized to permit by this chapter. The Board shall decide such questions as are involved in determining whether conditional uses should be granted and shall apply such conditions and safeguards as are necessary and appropriate under this chapter, or to deny conditional uses when incompatible or inconsistent with the purpose and intent of this chapter. Before any conditional use shall be granted, the Board shall make written findings certifying compliance with any specific regulations governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a) There will be adequate ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency;

(b) There will be conveniently located adequate off-street parking and loading areas. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties;

(c) Adequate refuse disposal and service areas will be provided. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties;

(d) Adequate utilities will be available to serve the use;

(e) Adequate screening and buffering will be provided to mitigate any adverse effects of the conditional use on surrounding properties;

(f) Any signs or lighting permitted in conjunction with the conditional use shall be appropriate to the location and in harmony with the general character of the properties in the area. Special consideration shall be given to the size, design, and location of these in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties; and/or

(g) Setback distances will provide adequate open space and separation from adjoining land uses.

(2) Before granting any conditional use, the Board shall make a written finding that such use will be in general compatibility with adjoining properties and will be consistent with the spirit and intent of this chapter.

(K) *Variances.*

(1) The Board of Zoning Appeals shall hear and decide variances of use and variances from development standards (such as height, bulk, or area) in accordance with the criteria established in this section.

(2) The Board may impose conditions as deemed necessary in the public interest. Failure to comply with any conditions imposed by the Board shall constitute a violation of this chapter.

(3) Conditions of variances may be in the form of written commitments signed by the owner of the real estate and shall authorize the Board to record such commitments in the office of the County Recorder upon the grant of the variance. The Board may require commitments to designate any specially affected persons who shall be entitled to enforce them.

(4) Before granting a variance of use, the Board must make written findings of fact that all the following criteria are met:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(c) The need for the variance arises from some condition peculiar to the property involved;

(d) The strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(e) The approval does not interfere substantially with the Comprehensive Plan.

(5) Before granting a variance from the development standards, the Board must make written findings of fact that all of the following criteria are met:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(c) The strict application of the terms of this chapter will result in practical difficulties in the use of the property. However, this chapter may establish a stricter standard.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

§ 153.13 AMENDMENTS.

(A) The text of this chapter may, from time to time, be amended in accordance with I.C. 36-7-4-600 et seq. An amendment to the text of this chapter may be initiated by the Plan Commission or by the Town Council. The Plan Commission shall hold a public hearing on proposed amendments to the text of this chapter in accordance with the state code and with the Plan Commission's rules of procedure.

(B) The zoning map adopted as a part of this chapter by reference may, from time to time, be amended in accordance with I.C. 36-7-4-600 et seq. Amendments to the zoning map may be initiated by the Plan Commission, Town Council, or by petition of the owners of 50% or more of the area involved in the petition. The Plan Commission shall hold a public hearing on proposed amendments to the zoning map in accordance with the state code and the Plan Commission's rules of procedure.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

ZONING DISTRICTS

§ 153.25 MINOR ESSENTIAL SERVICE.

(A) Minor essential services are permitted in all zoning districts.

(B) Such services include overhead or underground gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems; collection, communication, supply of disposal systems, including towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

§ 153.26 AGRICULTURAL (AG).

(A) This District is intended to promote well-planned development of outlying areas. It is also intended to provide for agricultural uses and for rural residential uses. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by Plan Commission.

(B) The following uses are permitted as principal uses:

(1) Agricultural uses;

- (2) Single-family dwelling;
- (3) Animal husbandry;
- (4) *Residential development;
- (5) *Open space uses;
- (6) *Transportation uses;
- (7) *Manufacturing uses;
- (8) *Research uses;
- (9) *Educational uses;
- (10) *Healthcare uses;
- (11) *Essential services;
- (12) *Mobile home park;
- (13) *Commercial development;
- (14) *Resort motel or inn;
- (15) *Retirement home; and/or
- (16) *Public accommodation uses.

(C) Uses accessory to these uses are permitted on the same lot with the principal uses.

(D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:

- (1) Mobile home;
- (2) Church;
- (3) Day care center;
- (4) Confined feeding operation;
- (5) Automobile repair shop;
- (6) Automobile service station;
- (7) Commercial development;
- (8) Junkyard;
- (9) Kennel;
- (10) Mineral extraction in urban area;
- (11) Automobile sales, new; and/or
- (12) Automobile sales, used.

(E) (1) Agricultural uses shall have a minimum lot area of five acres, a minimum of 100 feet of frontage on a street, and a minimum lot width of 300 feet.

(2) Single-family dwellings shall have a minimum lot area of five acres and a minimum of 50 feet of frontage on a public street or other approved access.

(3) Front yard setbacks shall be at least 25 feet.

(4) Side and rear yard setbacks for any dwelling shall be at least ten feet, and for any accessory structure, at least five feet.

(5) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(6) Minimum standards for all uses on an approved development plan shall be as shown on the plan.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014; Ord. 2015-12, passed 11-2-2015) Penalty, see § 153.99
§ 153.27 LOW DENSITY RESIDENTIAL (R-40).

(A) This District is established to provide a transitional area between urban and rural areas and to provide for low-density residential development in areas where sewer and water services are not provided. It is intended for those areas where soils are suitable for on-site sewage disposal systems, on lots large enough to accommodate such systems. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

(B) The following are permitted as principal uses:

- (1) Single-family dwelling;
- (2) *Open space uses;
- (3) *Educational uses;
- (4) *Residential development;

- (5) *Mobile home park; and/or
- (6) *Health care use.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:
 - (1) Church;
 - (2) Day care center; and/or
 - (3) Essential services.
- (E) (1) Single-family dwellings shall have a minimum lot area of 40,000 square feet and a minimum of 100 feet of frontage on a public street or other approved access.
 - (2) Front yard setbacks shall be at least 25 feet.
 - (3) Side and rear yard setbacks for any dwelling shall be at least ten feet, and for any accessory structure, at least five feet.
 - (4) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.
 - (5) Minimum standards for all uses on an approved development plan shall be as shown on the plan.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.28 MEDIUM DENSITY RESIDENTIAL (R-10).

(A) This District is established to provide suburban-type residential development in areas where sewer and water and services are provided. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

- (B) The following are permitted principal uses:
 - (1) Single-family dwelling;
 - (2) *Open space uses;
 - (3) *Educational uses;
 - (4) *Residential development; and/or
 - (5) *Mobile home park.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:
 - (1) Church;
 - (2) Day care center; and/or
 - (3) Essential services.
- (E) (1) Single-family dwellings shall have a minimum lot area of 10,000 square feet and a minimum of 75 feet of frontage on a public or private street.
 - (2) Front yard setbacks shall be at least 25 feet.
 - (3) Side and rear yard setbacks for any dwelling shall be at least ten feet, and for any accessory structure, at least five feet.
 - (4) Minimum standards for all uses on an approved development plan shall be as shown on the plan.
 - (5) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.29 HIGH DENSITY RESIDENTIAL (R-5).

(A) This District is established to provide high-density residential development on infill lots in developed areas where sewer and water services are provided. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

- (B) The following are permitted principal uses:
 - (1) Single-family dwelling;
 - (2) Two-family dwelling;
 - (3) *Open space uses; and/or
 - (4) *Educational uses.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:

- (1) Church;
- (2) Day care center; and/or
- (3) Essential services.

(D) (1) Single-family dwellings shall have a minimum lot area of 5,000 square feet and a minimum of 40 feet of frontage on a public street.

(2) Two-family dwellings shall have a minimum of 7,500 square feet and 60 feet of frontage on a public street.

(3) Front yard setbacks shall be at least 15 feet.

(4) Side and rear yard setbacks for any dwelling shall be at least ten feet and for any accessory structure at least five feet.

(5) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(6) Minimum standards for all uses on an approved development plan shall be as shown on the plan. (Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.30 MULTIFAMILY RESIDENTIAL DISTRICT (RM).

(A) This District is established to provide multifamily residential development on parcels in areas where sewer and water services are provided. It is intended for those areas where public sewage disposal is available. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

(B) The following are permitted uses:

- (1) *Multifamily dwellings; and/or
- (2) *Open space uses.

(C) Uses accessory to these uses are permitted on the same lot with the principal uses.

(D) The following use may be permitted by the Board of Zoning Appeals as a conditional use: essential services.

(E) (1) Multifamily dwelling projects shall have a minimum lot area of two acres, with a minimum of 40 feet of frontage on a public street.

(2) The minimum lot area for each dwelling unit shall be 1,500 square feet.

(3) Minimum standards for all uses on an approved development plan shall be as shown on the plan.

(4) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.31 MIXED USE DEVELOPMENT DISTRICT (MXD).

(A) This District is intended to provide for a mixture of dense, small-scale urban uses in the community core. This District includes the central business area, as well as a mixture of uses in the older, more densely developed portions of the town. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

(B) The following uses are permitted as principal uses:

- (1) Single-family dwelling;
- (2) Two-family dwelling;
- (3) *Multifamily dwelling;
- (4) *Church;
- (5) *Health care use;
- (6) *Retail sales establishment;
- (7) *Personal convenience services;
- (8) *Professional and business services;
- (9) *Restaurant;
- (10) *Day care center;
- (11) *Bed and breakfast use;
- (12) *Public accommodation uses;
- (13) *Open space uses;

- (14) *Transportation uses;
 - (15) *Manufacturing uses;
 - (16) *Research uses;
 - (17) *Educational uses; and/or
 - (18) *Essential services.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:
- (1) Automobile repair shop;
 - (2) Automobile service station;
 - (3) Commercial garage;
 - (4) Automobile sales, new; and/or
 - (5) Automobile sales, used.
- (E) (1) The minimum lot area is 5,000 square feet, and the minimum frontage on a public street is 40 feet.
- (2) The minimum front setback shall be ten feet.
 - (3) Side and rear yard setbacks for any structure shall be at least five feet.
 - (4) No structure, other than public buildings or churches, shall contain more than 5,000 square feet per floor.
 - (5) Minimum standards for all uses on an approved development plan shall be as shown on the plan.
 - (6) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.
- (Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014; Ord. 2015-12, passed 11-2-2015) Penalty, see § 153.99
- § 153.32 NEIGHBORHOOD SERVICE DISTRICT (C-1).**

(A) This District is established to provide for small-scale retail business uses to serve residential neighborhoods. Because of the need for compatibility in this District, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

- (B) The following uses are permitted as principal uses:
- (1) Personal convenience services;
 - (2) Retail sales establishment;
 - (3) Restaurant;
 - (4) Professional and business services;
 - (5) *Health care use;
 - (6) Day care center;
 - (7) *Educational uses; and/or
 - (8) *Essential services.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:
- (1) Church;
 - (2) Automobile repair shop;
 - (3) Automobile service station; and/or
 - (4) Commercial garage.
- (E) (1) The minimum lot area is 10,000 square feet, and the minimum frontage on a public street is 100 feet.
- (2) The minimum front setback shall be 30 feet.
 - (3) Side and rear yard setbacks shall be at least five feet.
 - (4) The maximum floor area of any building shall be 1,200 square feet.
 - (5) Minimum standards for all uses on an approved development plan shall be as shown on the plan.
 - (6) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.
- (Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99
- § 153.33 GENERAL BUSINESS (C-2).**

- (A) This District is established to provide for a wide variety of retail and other commercial uses.
- (B) The following uses are permitted as principal uses:
- (1) All uses permitted in the B-1 District;
 - (2) Public accommodation uses;
 - (3) Commercial recreation uses, such as auditorium, theater, bowling alley, miniature golf, skating rink, and similar indoor or outdoor amusement uses; and/or
 - (4) Clubs, funeral parlors, mortuaries, and similar uses.
- (C) Uses accessory to these uses are permitted on the same lot with the principal uses.
- (D) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:
- (1) Automobile service station;
 - (2) Automobile repair shop;
 - (3) Commercial garage;
 - (4) Essential services;
 - (5) Car wash;
 - (6) Drive-up window;
 - (7) Transportation uses; and/or
 - (8) Manufacturing uses.
- (E) (1) The minimum lot area is 10,000 square feet, and the minimum frontage on a public street is 100 feet.
- (2) The minimum front setback shall be 25 feet.
 - (3) Side and rear yard setbacks shall be at least ten feet.
 - (4) Minimum standards for all uses on an approved development plan shall be as shown on the plan.
 - (5) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.34 PLANNED COMMERCIAL DISTRICT (C-3).

(A) This District is established to provide for shopping centers, office parks, and other commercial centers which are planned and managed as a unit. Because of the need for compatibility in this District, no use is permitted without a development plan approved by the Plan Commission.

(B) Any commercial or industrial use approved by the Plan Commission on the development plan is permitted in this District.

(C) (1) Planned business projects shall be at least two acres in size, unless the Plan Commission finds that special circumstances warrant a smaller project size. Individual lots of smaller sizes may developed within the project, but such lots shall be oriented to the remainder of the project, and the entire project shall be unified in design and character and subject to uniform covenants running with the land.

(2) At least 10% of the total land area of a planned business project shall be devoted to open space other than parking. This space may be useable open space for the convenience of customers of landscaped areas, and it may be indoors or outdoors.

(3) Other minimum standards for this District shall be those on the approved development plan.

(4) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.35 LIGHT MANUFACTURING DISTRICT (M-1).

(A) This District is established to provide for industrial operations which are conducted within enclosed buildings in such a manner that nuisances will not be created for neighboring properties. Because of the need for compatibility in this District, no use shall be permitted without a development plan approved by the Plan Commission.

(B) The following uses are permitted as principal uses:

(1) Light manufacturing, including processing, refining, fabricating, assembling, cleaning, testing, or repairing of goods, materials, or products;

(2) Wholesaling, warehousing, packaging, storage, or distribution facilities;

- (3) Transportation uses;
- (4) Research uses;
- (5) Essential services; and/or
- (6) Office uses.

(C) Uses accessory to these uses are permitted on the same lot with the principal uses.

(D) (1) Principal uses shall have a minimum lot area of 10,000 square feet, and a minimum of 100 feet of frontage on a public street.

(2) Front yard setbacks shall be at least 25 feet.

(3) Side and rear yard setbacks shall be at least ten feet.

(4) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(5) In addition, the development or use shall comply with the approved development plan.

(E) The following uses may be permitted by the Board of Zoning Appeals as conditional uses:

(1) Automobile service station;

(2) Automobile repair shop;

(3) Commercial garage; and/or

(4) Retail sales establishment.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.36 INDUSTRIAL PARK DISTRICT (M-2).

(A) (1) This District is established to provide for groupings of industrial uses in a single development which are designed and planned as a harmonious development.

(2) Because of the need for compatibility in this District, no use is permitted without a development plan approved by the Plan Commission.

(B) Any commercial or industrial use approved by the Plan Commission on the development plan is permitted in this District.

(C) (1) Industrial parks shall be at least ten acres in size, unless the Plan Commission finds that special circumstances warrant a smaller project size. Individual lots of smaller sizes may develop within the project, but such lots shall be oriented to the remainder of the project, and the entire project shall be unified in design and character and subject to uniform covenants running with the land.

(2) At least 10% of the total land area of an industrial park shall be devoted to open space other than parking.

(3) Other minimum standards for this District shall be those shown on the approved development plan.

(4) Off-street parking shall be provided in accordance with the parking standards and regulations attached to the zoning ordinance codified herein and incorporated as a part of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

GENERAL REQUIREMENTS AND STANDARDS

§ 153.50 DEVELOPMENT PLANS.

(A) Development plans require primary and secondary approval by the Plan Commission. Any development plan submitted for primary approval shall include the following:

(1) Proposed name of the development;

(2) Name and address of the developer;

(3) Name and address of the owner;

(4) Description of the location of the property;

(5) Map including date, scale, north arrow, approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures existing or to be placed in the development;

(6) Nature and intensity of the operations involved in or conducted in connection with the development;

(7) Site layout of the development, including the location, size, arrangement, and capacity of the area to be used for vehicular access (including driveway widths, designs, and curb radii), parking spaces, loading and unloading;

(8) Names of public ways giving access to the development, and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces;

(9) Layout, names and widths of proposed public ways; widths of alleys, lanes, walkways paths, and easements;

(10) Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area;

(11) Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site screening activities, including a description of the types, numbers, and sizes of landscape materials to be used;

(12) Number, types, sizes, locations, heights, and designs of any proposed signs;

(13) Storm drainage plan, including topographic features, appropriate contour intervals, and directions of stormwater runoff;

(14) Sewage disposal plan;

(15) Water supply system;

(16) Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone);

(17) Layout of proposed lots with approximate dimensions; and/or

(18) Land use intensity factors (i.e., dwelling units/acre, floor area ratio, lot coverage).

(B) After receipt of an application for primary approval of a development plan, the Plan Commission shall schedule a public hearing on the proposal. The Commission shall notify the applicant in writing of the date of the hearing, give notice by publication in accordance with I.C. 5-3-1, and provide for due notice to interested parties at least ten days before the date set for the hearing. The Plan Commission shall, by rule, determine who interested parties are, how notice is to be given to them, and who is required to give that notice.

(C) The Plan Commission may approve or deny an application for primary approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and purpose of this chapter. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection.

(D) In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:

(1) General compatibility of the proposed development and uses therein with adjacent and nearby properties;

(2) Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency;

(3) Off-street parking and loading areas in relation to surrounding properties;

(4) Adequacy and availability of utilities;

(5) Adequacy and suitability of landscaping, screening, and buffering;

(6) Appearance and compatibility of any proposed signs;

(7) Suitability and compatibility of lot sizes and layouts;

(8) Appearance, size, height, intensity, and compatibility of building and structures in relation to the surrounding area; and

(9) Any other factors which the Plan Commission deems applicable to the specific proposal.

(E) A development plan may be approved by the Plan Commission only if the Commission makes a determination that all of the following criteria are met:

(1) The use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding area, or to the community as a whole;

(2) The public convenience and welfare will be substantially served; and

(3) The proposal is consistent with the goals and policies established in the Comprehensive Plan of the town.

(F) The Plan Commission may grant secondary approval to a development plan if it finds that all conditions of primary approval have been met. The Commission may, by rule delegate secondary approval to a committee or person, whose denial may be appealed to the full Plan Commission. No notice or hearing is required for secondary approval.

(G) No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the County Recorder.

(H) No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.

(I) Any development plan which has not been substantially put into effect five years after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

(Ord. passed - -1989) Penalty, see § 153.99

§ 153.51 SIGNS.

(A) *Purpose.* This section is adopted to promote and protect the public health, safety, and general welfare by regulating signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community and preserve the scenic and natural beauty of certain areas. It is further intended to reduce distractions and obstructions that may contribute to traffic accidents, to reduce hazards which may be created by unsafe signs, and to provide open space.

(B) *Signs not requiring permits.* The following signs shall conform to all applicable sign regulations of this chapter, except that they do not require an improvement location permit and will not be counted when calculating the quantity of signs permitted or the total allowable sign area for the property or use to which they relate:

(1) Signs identifying the name and address of inhabitants of residential property, which shall be limited in number to one such sign per resident or family and shall not exceed two square feet in area;

(2) No trespassing signs, or other signs regulating the use of property on which they are located, which signs shall not exceed two square feet in area in any residential district or five square feet in area in any non-residential district;

(3) Signs advertising real estate for sale, and similar signs, shall be limited in number to two signs for each property to which they relate and shall not exceed six square feet in area in residential districts or 20 square feet in non-residential districts;

(4) Instructional or directional signs including, but not limited to, on-premises signs related to traffic, parking, or other functional activities, signs identifying restrooms and related or similar facilities, entrance and exit signs, and building functions and services signs;

(5) Signs erected by a unit of government for official purposes;

(6) Memorial signs or tablets and signs denoting the date of erection of buildings which shall not exceed four square feet in area;

(7) Accessory signs incidental to a business or profession conducted on the premises communicating hours of operation, forms of acceptable payment (e.g., credit cards, business affiliations, and the like), wall-mounted at or immediately adjacent to the entrance of the building, not to exceed a combined total of four square feet in area;

(8) Temporary signs in the window of a building, lawfully serving as the location of a business, that do not occupy more than 50% of the area of the window and that are not to be in place more than 30 days;

(9) Construction contractor's signs, not to exceed one per contractor working on a construction project and not larger than six square feet each, and only during the period of construction;

(10) Temporary signs associated with special events, such as those sponsored by religious, public, or charitable organizations, which shall not exceed 24 square feet in area, posted no more than 14 days prior to the event and removed within 24 hours after the event;

(11) Holiday signs and decorations for no longer than 30 days prior to and 30 days after the date of the holiday to which they relate;

(12) Farm signs identifying crops produced on the premises; and

(13) One subdivision or similar entrance sign, not to exceed 12 square feet in area, at each entrance to a subdivision.

(C) *Signs prohibited in all districts.* The following signs shall not be permitted in any zoning district:

- (1) Signs which have any visible moving parts;
- (2) Signs which incorporate in any manner flashing or moving illumination, animation, or illumination which varies in color, except time/temperature signs in the MXD District or any such sign shown on an approved development plan;
- (3) Any sign or sign support which constitutes a hazard to public safety or health, including signs which by reason of size, location, content, coloring, manner, or illumination obstruct the vision of a driver or obstruct or detract from the visibility or effectiveness of any traffic control device, or which obstruct free ingress and egress, or which make use of words such as stop, look, one way, danger, yield, or any similar words, phrases, symbols, lights, or characters in such a manner as to interfere with, mislead, or confuse traffic; and
- (4) Portable signs.

(D) *Commercial and industrial signs.* The following signs may be erected on commercial or industrial premises upon issuance of an improvement location permit.

(1) One wall-mounted sign for each principal building or use in a building. Where walls of a building front on more than one street or parking lot, one such sign may be permitted for each of those walls. The area of each wall mounted sign shall not exceed one square foot for each linear foot of the building frontage on which the sign is located.

(2) One free standing sign shall be allowed per lot, the base of the sign shall not be over 15 feet high, with a maximum height of 25 feet. The sign itself shall not be more than 12 feet wide nor more than 12 feet high with a maximum of 100 square feet.

(E) *Billboards.* Any off-premises sign other than those otherwise specified by this chapter shall be deemed billboards. Billboards are permitted only as follows:

- (1) Billboards shall be located no closer than 50 feet to the right-of-way line of any street;
- (2) Billboards shall not be permitted within 500 feet of a residential zoning district;
- (3) Billboards shall be spaced no closer than 1,000 feet apart;
- (4) Billboards shall be no taller than 15 feet in height, and they shall be no larger than 300 square feet in area; and
- (5) Billboards shall not contain any moving or changing parts or text and shall contain no flashing lights.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.52 GENERAL REGULATIONS.

(A) *Building heights.*

(1) The maximum heights of buildings shall be as follows:

- (a) Single- or two-family dwelling: 30 feet;
- (b) Multifamily dwelling: 35 feet;
- (c) Accessory building: 15 feet;
- (d) Commercial building: 35 feet; and/or
- (e) Industrial building: 40 feet.

(2) Radio towers for licensed amateur radio operators may be erected to a height of 50 feet in the R-3 and R-2 Districts. Radio towers for licensed amateur radio operators and structures related to agricultural uses and operations may be erected to a height of 100 feet in R-1 and agricultural districts.

(B) *Building setback requirements.*

(1) Setback lines for improved blocks shall be in accordance with the setback distance already established. In any improved block which contains existing legally established buildings on 30% or more of the frontage of the same block on the same side of the street, or a distance of 300 feet, whichever is the lesser, the minimum required setback line shall be the average of such established setback line, but in all districts other than MXD, the setback shall not be less than 15 feet. For the purposes of this section, the existing average setback shall be determined using the distance between the right-of-way and the closest portion of the existing building (including roof overhangs or other structural appurtenance to the building).

(2) In no case shall a structure be permitted to be constructed within the right-of-way.

(3) Setback dimensions shall be measured from the right-of-way line of a road or street that the parcel

abuts and from neighboring property lines.

(C) *Vision clearance.* On any corner lot on which a front yard is required, no wall, fence, or other structure shall be erected and no hedge, tree, shrub, or other growth shall be maintained in such a manner as to cause danger to traffic by obstructing the view.

(D) *Buildings or uses per lot.* There shall be no more than one principal residential building or use per lot, except for multifamily dwellings in conformity with this chapter. There may be more than one principal commercial or industrial building or use on a single parcel, provided that such buildings or uses are under common ownership or control.

(E) *Yard areas.* No accessory building or structure shall be permitted in any front yard area, except for lawn ornaments, outdoor lights, and other such items which customarily are located in the front yard area. Antenna shall not be located in the front yard in any district. Fences in front yards shall be decorative and can only be installed after a review and approval of the design by the Plan Commission. Up to a six-foot high fence is permitted in a rear or side yard. Barbed and/or razor wire is prohibited.

(F) *Outdoor storage and display.* Outdoor storage or display of materials shall not be permitted unless such storage is a customarily accessory use to the principal use of the property. Such materials stored out of doors shall be effectively screened from view of neighboring properties by an opaque fence or landscape screen.

(G) *Lighting.* No lighting shall be permitted which creates a glare or other nuisance to neighboring property.

(H) *Above-ground fuel tanks.* Any above-ground fuel tank shall meet all applicable regulations of the National Fire Protection Association. In no case shall any tank used to dispense fuel directly to vehicles be placed above ground.

(I) *Home occupations.* Home occupations shall be permitted in residential districts by the grant of a home occupation permit issued by the Plan Commission, subject to the following requirements.

(1) Permitted home occupations shall be incidental and subordinate to the use of the premises as a residence.

(2) Permitted home occupations shall not be of such scale and/or nature that they interfere with the use and enjoyment of neighboring residences or create a nuisance.

(3) For purposes of this chapter, home occupations include, but are not limited to, professional offices, real estate or insurance offices, writing, painting, photography, consultation, tutoring, music instruction, and clergy.

(4) The operator of a home occupation must reside in the home housing the home occupation and the primary use and appearance of the property shall, at all times, remain residential.

(J) *Mobile homes.* A mobile home being any unit originally intended as a dwelling unit, whether used for a dwelling unit or other purpose, shall be subject to the applicable provisions of this chapter.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.53 ADULT USE STANDARDS.

(A) *Adult uses.* Adult uses shall be permitted only in the Industrial Park District (I-2).

(B) *Separation requirements.* Adult uses shall be located a minimum of 1,000 feet from any church, school, park, day care facility, residentially zoned area, public, or cultural facility. The distance shall be measured from the closest property lines on which each use is located.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.54 NON-CONFORMING USES AND LOTS.

(A) Any use that legally existed on the effective date of this chapter, but which does not comply with the provisions of this chapter, is hereby deemed a legal non-conforming use. Any structure that legally existed on the effective date of chapter, but which does not comply with the provisions of this chapter, is hereby deemed a legal non-conforming structure. The burden to prove that a use or structure qualifies as a legal non-conforming use or structure shall rest with the property owner or occupant. In the absence of sufficient proof, the non-conforming use or structure will be deemed to be unlawful.

(B) Legal non-conforming uses and structures are subject to the following regulations:

(1) No legal non-conforming use or structure shall be expanded or enlarged;

(2) No non-conforming use or structure shall be moved, in whole or in part, to any part of a lot or parcel other than that occupied by such use or structure on the effective date of this chapter;

(3) If a non-conforming structure is demolished or damaged, by any means, to an extent of 75% of its value in accordance with the latest tax assessment rolls at the time of such damage, such structure shall not be reconstructed except in conformity with this chapter;

(4) Any non-conforming use or structure that is abandoned or discontinued for a period of one year shall not thereafter be used except in strict compliance with this chapter; and

(5) If any non-conforming use is changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

(C) Nothing in this chapter shall be deemed to require change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this chapter, provided, however, that said construction shall be diligently pursued to completion.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.55 FLOODPLAIN.

(A) Any construction in a floodplain is prohibited without meeting the requirements of the state floodplain regulations administered by the State Department of Natural Resources.

(B) In a floodplain, as defined by the State Department of Natural Resources, the following uses are permitted, provided they do not include the erection of any structure, the opening of any excavation, or the disposition of any material or substance and comply with the provisions of the state floodplain regulations:

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming;

(2) Forestry, wildlife areas, and nature preserves; and/or

(3) Parks and recreational uses, such as golf courses, driving ranges, and play areas.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014) Penalty, see § 153.99

§ 153.99 PENALTY.

(A) Any property owner, and/or occupant, who violates any provision of this chapter or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this chapter, may be fined in a sum not less than \$25 and not more than \$300 for each day the violation exists.

(B) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, real estate agent, or other person, who commits, participates in, assists in, or maintains such violation may be the subject of an enforcement action and suffer the penalties herein provided.

(Ord. passed - -1989; Ord. 2014-5, passed 5-5-2014)

Table

I. ZONING MAP CHANGES

TABLE I: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2015-12	11-2-2015	The property commonly known as 420 W. Washington Street, Morgantown, Indiana is rezoned from the High Density Residential District (R-5) to the General Business District (C-2).

References to Indiana Code

References to Resolutions

References to Ordinances

REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
1-1-1-5	10.04
1-1-1-7	10.12
1-1-1-8	10.06
1-1-4-5	10.05
1-1-5-1	10.11
1-1-6-1	10.08
1-1-7-1	92.38
3-8-5-2	32.01
3-10-6	32.16
3-10-7	32.16
3-13-9-3	32.20
5-2-1-9	32.36, 32.39
5-3-1	31.077, 153.50
5-11-1-27	35.30, 35.31
5-11-1-27(1)	35.31
5-11-10-1.6	33.04
5-11-10-2	33.03
5-13-4-2	35.30
5-14-1.5	31.020
5-14-1.5-3.5	31.024
5-14-1.5-3.6	31.024
5-14-1.5-4(a)	31.023
5-14-1.5-4(b)	31.024
5-14-1.5-4(c)	31.024
5-14-1.5-6.1	31.021
5-14-3-3	31.021
5-14-3-4(b)(12)	31.021
5-16-9	72.04
5-28-11-2(3)	31.021
6-1.1-17	33.21, 33.22
6-1.1-17-3	33.20
8-1.5-2	52.02
8-14-1	33.07
8-14-2	33.07
8-22-2	31.021
8-22-3	31.021
8-23-4	90.07
9-13-2	92.03
9-13-2-1	90.02, 92.03
9-13-2-6	70.01
9-13-2-8	90.02
9-13-2-16	90.02
9-13-2-47	70.01
9-13-2-49.3	70.01
9-13-2-56	70.01
9-13-2-63	90.02
9-13-2-73	70.01

9-13-2-77	70.01
9-13-2-84	70.01
9-13-2-105(a) and (b)	70.01
9-13-2-108	70.01
9-13-2-118	70.01
9-13-2-121(a)	70.01
9-13-2-121(c)	90.02
9-13-2-122	90.02
9-13-2-136	90.02
9-13-2-144	90.02
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9-13-2-157	70.01
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9-13-2-178	70.01
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9-13-2-60(a)(3)	73.01
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9-22-1-16(b)	90.05
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9-22-1-19	90.08

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14-28-1-26	152.44
16-18-2-110	70.01
16-22-8	70.01
22-9-1-4 et seq.	94.02
22-9.5-1 et seq.	94.01
22-9.5-2-2	94.02
22-9.5-2-3	94.02
22-9.5-2-4	94.02
22-9.5-2-8	94.02
22-9.5-2-9	94.02
22-9.5-2-10	94.02
22-9.5-2-10(b)	94.02
22-9.5-2-10(c)	94.02
22-9.5-2-11	94.02
22-9.5-2-13	94.02
22-9.5-3	94.03
22-9.5-3 et seq.	94.09
22-9.5-4-8	94.10
22-9.5-5	94.02
22-9.5-5-1	94.03
22-9.5-6	94.02, 94.10
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33-36-2-2	34.02
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33-36-3	34.03
33-36-3-1	34.04
33-36-3-2	34.05

33-36-3-3	34.06
33-36-3-5	34.07
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