

TOWN OF DAYTON, INDIANA

CODE OF ORDINANCES

2017 S-4 Supplement contains:

Local legislation current through Ord. 2014-11, passed 9-8-2014; and
State legislation current through Indiana Legislative Service, 2016 Acts, Pamphlet No. 5

AMERICAN LEGAL PUBLISHING CORPORATION

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OF

DAYTON,
INDIANA

TOWN COUNCIL

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MEMBER
MEMBER
MEMBER
MEMBER

Mike Harris, President
Ashley Stevenson
Ron Koehler
Tammi Nice
Tyron Taylor

TOWN OFFICIALS

TOWN ATTORNEY

TOWN CLERK-TREASURER
UTILITY SUPERINTENDENT

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and Jason Ramsland, Esquire
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ORDINANCE 11-4

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE TOWN OF DAYTON, INDIANA, REVISING, REARRANGING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety, and general welfare of the Town of Dayton, Indiana, (hereafter “the Town”) and the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Indiana empower and authorize the Town to revise, rearrange, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one code in book form; and

WHEREAS, the Town Council as the legislative body of the Town has authorized a general compilation, revision, rearrangement, and codification of the ordinances of the Town of a general and permanent nature and publication of such ordinances in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the Town and for the immediate preservation of the public peace, health, safety and general welfare of the Town that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF DAYTON, INDIANA:

Section 1. The general ordinances of the Town as revised, rearranged, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the “Code of Ordinances of the Town of Dayton, Indiana.”

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

TITLE I: GENERAL PROVISIONS
TITLE II: [unused]
TITLE III: ADMINISTRATION
TITLE IV: [unused]
TITLE V: PUBLIC WORKS
TITLE VI: [unused]
TITLE VII: TRAFFIC CODE
TITLE VIII: [unused]
TITLE IX: GENERAL REGULATIONS
TITLE X: [unused]

TITLE XI: BUSINESS REGULATIONS

TITLE XII: [unused]

TITLE XIII: GENERAL OFFENSES

TITLE XIV: [unused]

TITLE XV: LAND USAGE

- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Town Council of the Town and the Clerk-Treasurer of the Town is hereby authorized and ordered to file a copy of such Code of Ordinances in the office of the Clerk-Treasurer.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

ADOPTED AND PASSED BY THE TOWN COUNCIL OF THE TOWN OF DAYTON, INDIANA THIS 7 DAY OF MARCH, 2011.

Michael Harris /s/
Michael Harris, Presiding Officer

ATTEST:
Ron Koehler /s/
Ron Koehler, Clerk-Treasurer

ORD 2011-10

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES FOR THE TOWN OF DAYTON, INDIANA
AND DECLARING AN EMERGENCY.**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1st supplement to the Code of Ordinances of the Town of Dayton, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Town; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Indiana code; and

WHEREAS, it is the intent of the Town Council to accept these updated sections in accordance with the changes of the law of the State of Indiana; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAYTON, INDIANA:

- Section 1. That the 1st supplement to the Code of Ordinances of the Town of Dayton as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk Treasurer of Dayton, Indiana is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk Treasurer.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of the Town of Dayton, Indiana on this 7th day, of Nov, 2011 .

Dayton - Adopting Ordinance

ATTEST:

Town Council

Ron Koehler /s/
Ron Koehler, Clerk-Treasurer

Michael Harris /s/
Michael Harris

Mike O. Boas /s/
Mike O. Boas

John Swick /s/
John Swick

Ronald D. Merkel Jr. /s/
Ronald D. Merkel Jr.

TITLE I: GENERAL PROVISIONS

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10. GENERAL PROVISIONS

11. INCORPORATION OF TOWN

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 “Town of Dayton 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 the Indiana Code.

§ 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 refer 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)

(H) All provisions of this code are limited to the territorial boundaries of the town unless the provision specifically provides otherwise.

§ 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 of one gender shall include the other genders unless the context clearly indicates or requires a different meaning. 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.

AND. May be read **OR** if the sense requires it.

CLERK - TREASURER. The Clerk-Treasurer of the Town Council.

COUNCIL. The Town Council.

COUNTY. Tippecanoe County, Indiana.

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

I.C. or IC. Refers to the Indiana Code.

MAY. Means the act referred to is permissive.

MONTH. One calendar month.

OATH. Includes an affirmation.

OR. May be read **AND** if the sense requires it.

PERSON. Extends to and includes an individual person or persons, firm, corporation, copartnership, trustee, receiver, limited liability company, association, fiduciary, or governmental entity. 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.

REASONABLE TIME. See § 10.10(A).

REGISTERED MAIL. Includes certified mail.

SHALL. Means the act referred to is mandatory.

STATE. The State of Indiana.

TOWN. The Town of Dayton, Indiana.

TOWNSHIP. Sheffield Township.

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 nonseverability 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 an ordinance stating that the provisions of a code section are severable as provided in division (B) above does not affect the operation of division (B) with respect to that 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 this municipality 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; or at the time of the effective date of that ordinance or subsequent thereto, 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.

(C) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

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. 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. 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 legislative body 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. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 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.*

(C) If a section of this code is derived from the previous code of ordinances of the town and subsequently amended, the previous code section number shall be indicated in the history by “(Prior Code, § ____).”

§ 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 11: INCORPORATION OF TOWN

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- 11.02 Area of incorporation

§ 11.01 INCORPORATION.

The “Town of Dayton” is hereby declared to be incorporated and from and after this date the incorporated town shall be known as “Town of Dayton.”

(Ord. 70-1, passed 6-24-1970)

§ 11.02 AREA OF INCORPORATION.

The incorporated area of the town shall encompass and include the area of land which was described in the petition to incorporate the Town of Dayton, Indiana, which petition was filed with the Board of Commissioners of the county, on 4-20-1970, and which the area is described by a survey attached to the petition. The incorporated area of the town shall include and encompass only the area sought to be incorporated as described in the petition to incorporate the town.

(Ord. 70-1, passed 6-24-1970)

TITLE III: ADMINISTRATION

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- 30.03 Hours and use of town property
- 30.04 Authorized methods of payment to the town
- 30.05 Internal control standards
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(D) A standard fee for providing a duplicate of a computer tape from a computer disk, microfilm or similar or analogist record system in the amount of \$12 per hour and \$0.50 per diskette representing the direct cost of supplying the information in the form;

(E) The cost of copying photographs shall be the actual cost to develop;

(F) The cost for documents duplicated outside of the Clerk-Treasurer's office shall be the actual cost of the copying;

(G) Fees for books and pamphlets containing public records shall not exceed the actual cost of production including copying charges and binding; and

(H) The fee for each copy of an accident report shall be \$8.
(Ord. 04-05, passed 5-3-2004; Am. Ord. 2011-11, passed 12-5-2011)

§ 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 §§ 34.20 through 34.22

§ 30.02 FEES PERTAINING TO DOCUMENTS.

Pursuant to I.C. 5-14-3-8, the town shall collect the following fees for the collection, reproduction and dissemination of information requested by the public:

(A) A standard fee of \$0.25 per order plus \$0.10 per side per page for any eight and one-half by 11-inch, eight and one-half by 14-inch or 11 by 17-inch photocopy;

(B) A standard fee of \$0.25 per order plus \$0.25 per page for facsimile transmissions of documents;

(C) A standard fee of \$3 for cassette tape;

§ 30.03 HOURS AND USE OF TOWN PROPERTY.

(A) This section shall apply to all real estate owned by the town, hereinafter in this section referred to as real estate, except for the Town Hall building including the regularly rented area, and all streets, rights-of-way and sidewalks.

(B) It shall be unlawful for any person to be within or upon any real estate outside of the open hours, without a specific written authorization from the Town Council, except for any law enforcement

officers. The open hours for the real estate shall be from 8:00 a.m. to 8:00 p.m.

(C) It shall be unlawful for any person to have, keep, carry, serve or drink any beer, wine or other intoxicating beverage within or upon the real estate.

(D) It shall be unlawful for any person to deposit, permit or suffer to be deposited, dropped, thrown or discarded upon any real estate any garbage, sewage, refuse, paper, cardboard, bottle, cans, plastic cups or containers or any other waste.

(E) It shall be unlawful for any person to, by word or act, indulge in any noisy, boisterous, disorderly or indecent conduct, deposit any human excrement or waste, except where facilities are provided therefore and identified by the Town Council, or in any manner disturb the peace or good order of the community about, around and within the real estate.

(F) Where the Town Council has authorized any person to engage in the growing of any plant, crop, vegetable, flowers or in general to engage in gardening or farming on the real estate, then the person so authorized and the members of that person's family may go on the real estate to engage in gardening or farming activity beginning at 6:00 a.m. instead of 8:00 a.m. as provided in division (B) above.

(Prior Code, §§ 92.01—92.06) (Ord. 87-5, passed 2-5-1987) Penalty, see § 30.99

§ 30.04 AUTHORIZED METHODS OF PAYMENT TO THE TOWN.

(A) Pursuant to I.C. 36-1-8-11, the town is hereby authorized to accept the following types of financial instruments for payment:

- (1) Cash;
- (2) Check;
- (3) Bank draft;
- (4) Money order;

(5) Bank card/debit card;

(6) Credit card;

(7) Electric fund transfer.

(B) The Clerk-Treasurer has the authority to determine if, and under what circumstances, to accept for payment any of the financial instruments listed above as he or she, in his or her discretion, believes is in the best financial interest of the town.

(C) If the town incurs any charge for the use of any type of financial instruments set forth above, the town may collect a sum equal to the amount of the charge from the person or entity that uses the financial instrument.

(D) If recovery of the full amount of the charge for the use of any type of financial instrument incurred by the town is not permitted under any contract or other agreement with a credit card or bank card vendor, the city may absorb the charges, provided, however, that collection of fees is applied uniformly to all types of credit card or bank card payments.

§ 30.05 INTERNAL CONTROL STANDARDS.

(A) The town hereby adopts the uniform internal control policy standards for Indiana Political Subdivisions manual as published by the Indiana State Board of Accounts in September 2015, and as it may be amended from time-to-time, as the internal control standards for the town.

(B) The Town of Dayton, Indiana adopts as policy the internal control standards set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions in September 2015, and as it may be amended from time-to-time.

(C) In order to implement these standards, there is established an Internal Control Standards Oversight Committee, which shall consist of the President of the Town Council, the Town Clerk, and another member of the Town Council selected by the Town Council.

(C) All officers, elected officials and employees are required to comply with this policy. Employees who fail to comply with this policy are subject to discipline, up to and including, but not limited to, termination of employment.

(Ord. 2016-4, passed 5-2-2016)

§ 30.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Hours and use of town property.* Whenever herein any act is prohibited or is made or declared to be unlawful, the violation thereof shall be punishable by a fine not to exceed \$500.

(Prior Code, § 92.07) (Ord. 87-5, passed 2-5-1987)

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- 31.038 Duties of the President
- 31.039 Duties of Council members
- 31.040 Seconding of motions required
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Ordinances and Resolutions

- 31.070 Majority vote; when required
- 31.071 Two-thirds vote; when required
- 31.072 Date of adoption; publication
- 31.073 Record of ordinances

GENERAL PROVISIONS

§ 31.001 TERM OF OFFICE.

Except as otherwise provided in I.C. 36-5-2-3(b), (c), (d) or (e), 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))

§ 31.002 RESIDENCY REQUIRED.

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

(1) The town as provided in Indiana 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)

Cross-reference:

Meetings; rules of procedure, see §§ 31.035 through 31.055

MEETINGS; GENERAL PROVISIONS

§ 31.015 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.

§ 31.016 NOTICE OF MEETINGS.

(A) Regular meetings of the Town Council shall be held at a time and place established by the Town Council.

(B) 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 office exists, at the building where the meeting is to be held.

§ 31.017 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.

§ 31.018 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))

§ 31.019 QUORUM.

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

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

§ 31.020 CLERK OF COUNCIL; TIE-BREAKING VOTE.

(A) The Town Clerk-Treasurer is the Clerk of the Town Council.

(B) 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)

§ 31.021 TIME OF REGULAR MEETINGS; SPECIAL MEETINGS.

(A) *Regular meetings.* The regular meeting of the Town Council shall be held on the first Monday of every month at 7:00 p.m. In the event that a holiday falls on the same day of a regularly scheduled Council meeting, then that meeting will be held on the next Monday after the Monday on which the holiday occurred.

(B) *Special meetings.* Special meetings of the Town Council may be called upon written notice of not less than 72 hours by the presiding officer or by not fewer than three members thereof, which notice shall be directed as follows: "To the Town Council of the Town of Dayton," specifying therein the time and object of the meeting. The notice shall be delivered by the Clerk-Treasurer and served on each member of the Council by reading the same in his or her hearing, or by leaving a copy thereof at the last place of residence of each of the members. It shall not be necessary to serve the notice upon the members as have signed the call.

(Ord. 70-2, passed 10-5-1970; Ord. 96-1, passed 2-5-1996; Res. 2011-02, passed 6-6-2011)

§ 31.022 APPROVAL OF MINUTES.

The Clerk-Treasurer shall furnish copies of the proposed minutes to the members prior to the call to order of the meeting.

(Ord. 92-7, passed 4-6-1992)

MEETINGS; RULES OF PROCEDURE

§ 31.035 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 of Council shall proceed to call the roll of members. If a quorum is present, the Clerk of Council shall so announce and the Council shall proceed with the order of business.

Cross-reference:

Election of Council President, see § 31.004

Town Clerk-Treasurer serves as Clerk of Council, see § 32.003

§ 31.036 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall be necessary to transact the business of the Town Council.

(B) 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.

§ 31.037 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 of Council 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.

§ 31.038 DUTIES OF THE PRESIDENT.

(A) The President shall serve as the Chair, 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 Chair, the Council members may consider and pass upon the matter in spite of the Chair'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.

§ 31.039 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 presiding officer and shall not proceed with his or her remarks until recognized and named by the Chair.

(C) A member so recognized by the Chair 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 Chair, 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 Chair.

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

(G) A member, when called to order by the Chair, shall thereupon discontinue speaking. The order or ruling of the Chair 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 Chair and, if the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the Chair 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 Chair shall then put the question, "Shall the decision of the Chair 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.

§ 31.040 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 presiding officer before debate.

§ 31.041 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.

§ 31.042 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.

§ 31.043 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.

§ 31.044 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 of Council 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 of Council by answering "Aye" or "Nay," as the case may be.

(B) The names of each member of the Council shall be listed on the official copy of every ordinance passed indicating specifically the names of those voting "Aye" and those voting "Nay."

(C) 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.

(D) 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 § 31.071

§ 31.045 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.

§ 31.046 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.

§ 31.047 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.

§ 31.048 MOTION TO POSTPONE INDEFINITELY.

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

§ 31.049 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.

§ 31.050 AMENDMENTS.

(A) Only one amendment at a time may be offered to any question before the Council.

(B) The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed.

(C) Finally, a vote shall be taken on the principal motion as finally amended.

§ 31.051 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 Chair 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 Chair 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.

§ 31.052 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.

§ 31.053 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 of Council prior to the meeting. The Clerk of Council shall endeavor to distribute copies or read the material to the members of the Council.

§ 31.054 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.

§ 31.055 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

§ 31.070 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 § 31.044

§ 31.071 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) 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 legislative body districts.

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

§ 31.072 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); 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 legislative body districts under I.C. 36-5-2-4.1.

(C) Except as provided in division (E), if a 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, it takes effect two weeks after the publication of the book or pamphlet. Publication under this division, 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) That the ordinances have been properly signed; attested, recorded, and approved.

(D) This section (other than division (F)) 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) of this section.

(F) Subject to division (J), the legislative body shall:

(1) Subject to division (G) of this section, 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 legislative body, the Department of Environmental Management may waive the notice requirement of division (F)(1) of this section.

(H) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of division (F) of this section.

(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) apply only if the Town Council 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) 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)

§ 31.073 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

Section

Clerk-Treasurer

- 32.001 Residency requirement
- 32.002 Election; term of office
- 32.003 Powers and duties
- 32.004 Deputies and employees
- 32.005 Office space

Town Marshal

- 32.020 Appointment; compensation
- 32.021 Powers and duties
- 32.022 Deputy marshals; Humane Officer
- 32.023 Uniform allowance

Area Plan Commission

- 32.035 Members; qualifications
- 32.036 Cities and towns to participate by ordinance

Utility Clerk

- 32.050 Established
- 32.051 Appointment
- 32.052 Salary

School Traffic Guard

- 32.065 Established
- 32.066 Authority of Town Council
- 32.067 Duties
- 32.068 Substitution
- 32.069 Hours
- 32.070 Authority of Town Marshal
- 32.071 Salary

Cross-reference:

Clerk-Treasurer as Ordinance Violations Clerk, see § 34.02

CLERK-TREASURER

§ 32.001 RESIDENCY REQUIREMENT.

(A) The Clerk-Treasurer must reside within the town as provided in Indiana Constitution Article 6, § 6.

(B) The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town. (I.C. 36-5-6-3(a))

§ 32.002 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) or (d), 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))

§ 32.003 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)

§ 32.004 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)

§ 32.005 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)

TOWN MARSHAL

§ 32.020 APPOINTMENT; COMPENSATION.

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

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

§ 32.021 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)

Cross-reference:

Police Department, see Ch. 33

§ 32.022 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) 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. (I.C. 36-5-7-6)

Cross-reference:

Police Department, see Ch. 33

§ 32.023 UNIFORM ALLOWANCE.

(A) The town shall purchase equipment and uniforms for the Town Marshal and each Deputy Marshal in an amount not to exceed \$600 per officer annually.

(1) The uniform allowance shall be part of each officer's total compensation and shall be subject to regular payroll tax withholding.

(2) The uniform allowance shall be paid biennially in payments of \$300 in the pay periods including January 1 and July 1.

(B) Nothing contained herein shall limit the Town Board from authorizing additional purchases of equipment and uniforms if, at the discretion of the Board, such purchases are reasonably necessary. (Ord. 14-9, passed 6-5-2014)

AREA PLAN COMMISSION

§ 32.035 MEMBERS; QUALIFICATIONS.

The representation, both as to the number of members and the qualification, of members of the Area Plan Commission of Tippecanoe County shall be pursuant to I.C. 36-7-4-211, fixed at a total of 17 members, to be determined as follows:

(A) Two representatives who shall be members of the County Board of Commissioners and who shall be chosen by such Board of Commissioners and whose term shall be fixed by such Board, but shall not exceed their terms as such Commissioners.

(B) Two representatives who shall be members of the County Council and who shall be chosen by such County Council and whose term shall be fixed by such Council, but shall not exceed their terms on such Council.

(C) A representative who shall be an elected official, who shall be appointed by the Mayor of the city and whose term shall correspond to such elected official's term.

(D) One representative who shall be a member of the City Council of the city, and who shall be chosen by such City Council and whose term shall be fixed by such Council, but shall not exceed such Council member's term on such Council.

(E) A representative who shall be an elected official, who shall be appointed by the Mayor of the City of West Lafayette and whose term shall correspond to such elected official's term.

(F) One representative who shall be a member of the City Council of the City of West Lafayette, and who shall be chosen by such City Council and whose term shall be fixed by such Council, but shall not exceed such Council member's term on such Council.

(G) One representative who shall be a member of the Town Board of the Town of Battle Ground, Indiana and who shall be chosen by such Town Board and whose term shall be fixed by such Town Board, but shall not exceed such Town Board member's term.

(H) One representative who shall be a member of the Town Council of the Town of Clarks Hill, Indiana and who shall be chosen by such Town Council and whose term shall be fixed by such Town Council, but shall not exceed his or her term on such Town Council. The initial term shall begin on July 1, 1995, or the month of the adoption of this provision by the last adopting member unit, whichever is latest.

(I) One representative who shall be a member of the Town Board of the town and who shall be chosen by such Town Board and whose term shall be fixed by such Town Board, but shall not exceed such Town Board member's term.

(J) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the County Board of County Commissioners which appointees having heretofore been appointed shall continue in their present term and whose successor shall thereafter be appointed for a term of two years.

(K) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the Mayor of the City of West Lafayette. The current appointee having heretofore been appointed shall continue in the present term. The initial term of the new appointee shall be for two years beginning on January 1, 2016. Thereafter all appointments shall be for a term of two years.

(L) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the Mayor of the City of Lafayette, which appointees having heretofore been appointed shall continue in their present terms and whose successor shall thereafter be appointed for a term of two years.

(Prior Code, § 31.01) (Ord. 75-11, passed 12-1-1975; Ord. 95-8, passed - -1995; Ord. 2015-8, passed 12-7-2015)

§ 32.036 CITIES AND TOWNS TO PARTICIPATE BY ORDINANCE.

In the event any city or town named herein is not on the effective date of the appointment of the representatives prescribed herein or subsequently withdraws from participation, a participant by ordinance in the County Area Plan Commission, then the representative or representatives, be they Mayor, City Council members, Town Board member or citizen appointment, shall not be entitled to membership on the Plan Commission and the total membership of the Commission shall be reduced thereby.

(Prior Code, § 31.02) (Ord. 75-11, passed 12-1-1975)

UTILITY CLERK

§ 32.050 ESTABLISHED.

There is hereby established by the town the position of Utility Clerk, as provided by I.C. 36-5-6-7.
(Prior Code, § 37.01) (Ord. 1-94, passed 3-14-1994)

§ 32.051 APPOINTMENT.

The Town Clerk-Treasurer is directed to hire a Utility Clerk and the Utility Clerk shall be under the control and direction of the Clerk-Treasurer.
(Prior Code, § 37.02) (Ord. 1-94, passed 3-14-1994)

§ 32.052 SALARY.

The Utility Clerk's position shall be funded from:

(A) The Sewage Fund; and

(B) The Water Fund.

(Prior Code, § 37.03) (Ord. 1-94, passed 3-14-1994)

SCHOOL TRAFFIC GUARD**§ 32.065 ESTABLISHED.**

There is hereby established for the town the position of school traffic guard.
(Prior Code, § 35.01) (Ord. 83-1, passed - -1983)

§ 32.066 AUTHORITY OF TOWN COUNCIL.

The Town Council shall employ a school traffic guard and the school traffic guard shall be under the control and direction of the Town Council.
(Prior Code, § 35.02) (Ord. 83-1, passed - -1983)

§ 32.067 DUTIES.

The school traffic guard shall direct traffic and assist school children in the crossing of the street or streets as the Town Council shall heretofore or hereafter fix as the school crossing, and at the designated school crossing the traffic guard shall hereby be granted those police powers granted by the state to direct, stop and start vehicular and pedestrian traffic and shall have enforcement powers therefore.
(Prior Code, § 35.03) (Ord. 83-1, passed - -1983)

§ 32.068 SUBSTITUTION.

The school traffic guard, in the event of sickness, vacation or any emergency situation whereby he or she is unable to perform his or her duties hereunder, shall secure the services of some other person qualified to perform his or her duties as school traffic guard, which person so selected shall have all the powers of the appointed school traffic guard. Upon securing the other person, the school traffic guard appointed by the Town Council shall immediately advise the Town Clerk-Treasurer of the substitution of traffic guard and the identity of the person.
(Prior Code, § 35.04) (Ord. 83-1, passed - -1983)

§ 32.069 HOURS.

The school traffic guard shall be at the school crossing to perform the duties of the guard each day during which the grade school is actually in session during the regular school year. The Town Council shall fix the hours of the traffic guard in its minutes from time to time to correspond with starting and ending time of the school day.
(Prior Code, § 35.05) (Ord. 83-1, passed - -1983)

§ 32.070 AUTHORITY OF TOWN MARSHAL.

In addition to the duties herein set forth, the school traffic guard shall be subject to the general education and immediate direction of the Town Marshal in performing the duties of school traffic guard and any duties hereinafter set forth by resolution of the Town Council.
(Prior Code, § 35.06) (Ord. 83-1, passed - -1983)

§ 32.071 SALARY.

The salary of the school traffic guard will be fixed by the Town Council at the per day rate for each day the town grade school is actually in session during the regular school year and for which the school traffic guard performs the duties of school traffic guard as herein set forth, the salary payable monthly following the performance of duties. No other benefits

other than this salary shall be provided to the school traffic guard. For any substitute school traffic guard, the salary shall be the same and shall be paid by the town.

(Prior Code, § 35.07) (Ord. 83-1, passed - -1983)

CHAPTER 33: POLICE DEPARTMENT

Section

Police Training Fund

- 33.01 Establishment
- 33.02 Uses

POLICE TRAINING FUND

§ 33.01 ESTABLISHMENT.

A Police Training Fund is established for the exclusive use of and by the Town Police Department. (Prior Code, § 36.01) (Ord. 95-1, passed 1-9-1995)

§ 33.02 USES.

The Police Training Fund is for the exclusive use of and by the Town Police Department for any law enforcement related school, article or other related items to better enhance the performance of the Department. (Prior Code, § 36.03) (Ord. 95-1, passed 1-9-1995)

CHAPTER 34: FINANCES

Section

Disbursement of Funds

- 34.01 Appropriation required
- 34.02 Issue of warrants
- 34.03 Allowance of claims
- 34.04 Warrants for payment of claims
- 34.05 Payment of compensation to officer or employee prior to vacation leave
- 34.06 Claim payments in advance of allowance
- 34.07 Transfer of funds
- 34.08 Town credit cards
- 34.09 Electronic fund transfers
- 34.10 Promoting municipal betterment

Budgets

- 34.20 Preparation of annual budget estimates
- 34.21 Preparation and approval of ordinance fixing tax rate; making annual appropriations
- 34.22 Increase or decrease of appropriations after approval of ordinance

Cumulative Capital Development Fund

- 34.35 Declaration
- 34.36 Ad valorem tax
- 34.37 Maximum rates
- 34.38 Uses
- 34.39 Other uses
- 34.40 Approval by Department of Local Government Finance

Non-sufficient Fund Checks and Bad Debts

- 34.55 Handling of non-sufficient fund checks
- 34.56 Bad debt write-off policy

Rainy Day Fund

- 34.60 Rainy Day Fund

Wastewater Utility Debt Reserve Fund

- 34.65 Wastewater Utility Debt Reserve Fund

Water Utility Debt Reserve Fund

- 34.75 Water Utility Debt Reserve Fund

Fund 257

- 34.85 Fund 257

Cross-reference:

Police Training Fund, see §§ 33.20 and 33.21
Town Clerk to be Town Fiscal Officer, see § 32.003

DISBURSEMENT OF FUNDS

§ 34.01 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)

§ 34.02 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)

§ 34.03 ALLOWANCE OF CLAIMS.

(A) Except as provided in section § 34.06, 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)

§ 34.04 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 § 34.06, a warrant for payment of a claim against a 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 Fiscal Officer;

(3) Certified by the Fiscal Officer 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 Fiscal Officer under division (B)(3) of this section must be on a form prescribed by the State Board of Accounts.
(I.C. 36-5-4-6)

Cross-reference:

Town Clerk to be Town Fiscal Officer, see § 32.003

§ 34.05 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)

§ 34.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The Clerk-Treasurer shall be allowed to pay the following types of claims prior to the approval of the Town Council:

- (1) License fees or permit fees;
- (2) Insurance premiums;
- (3) Payments to utilities;
- (4) Maintenance or service agreements and contracts;
- (5) Bond payments;
- (6) Credit card payments;
- (7) Payroll;
- (8) Payments to state and federal taxing authorities;

(9) Expenses that must be paid because of emergency circumstances;

(10) Other contractual arrangement as approved by the Town Council on a case-by-case basis; and

(11) Other expenses as described in an ordinance.

(B) All payments made in accordance with this section shall be paid only after a detailed invoice that is in compliance with audit requirements is presented to the Clerk-Treasurer.

(C) All claims paid in accordance with this section shall be presented to the Town Council for review and allowance at the next meeting following the preapproved payment of the expense.

(D) Prepayment of invoices not related to town business is not authorized.

(E) Payment in advance of services rendered is not authorized by this section

(F) This section is adopted in compliance with Indiana Code authorizing a town to pay for certain purchases prior to town approval (Ord. 2010-05, passed - -2010)

Statutory reference:

Similar provisions, see I.C. 36-5-4-12

§ 34.07 TRANSFER OF FUNDS.

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. 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))

§ 34.08 TOWN CREDIT CARDS.

(A) Town employees and officials may use town credit cards for purchases related to the town when the use is in the best interest of the town.

(B) Town credit cards shall only be used with the approval of the Town Council or Clerk-Treasurer. Department heads issued a credit card shall maintain a usage log for each card identified by card account number (last four digits only). The log shall include the following:

(1) The name and position of the individual using the town's card;

(2) The type of purchase and approximate amount of the purchase;

(3) Upon return, the actual amount charged shall be indicated;

(4) The department head shall sign acknowledgment of return of card.

(C) Credit card purchases shall only be used for town business. No personal use of a town credit card is authorized.

(D) Because credit card purchases are subject to the same audit requirements as other disbursements, all detailed receipts must meet audit requirements. This means all receipts must be signed by the employee using the credit card, provide a detailed account of items purchased, free of non-business related items, free of sales taxes, and free of items prohibited by Indiana Code. It is the responsibility of the employee authorizing the charge to obtain properly itemized receipts. Charge slips showing a total charge

only is not acceptable without a store printout detailing items purchased as indicated above. Failure to do so could result in the charge becoming the personal obligation of the employee.

(E) Any interest or penalty incurred due to the late filing of receipts with the Clerk-Treasurer for payment of a credit card bill, or incurred due to the delay in furnishing documentation required for audit, shall be the responsibility of that employee.

(F) Credit cards shall not be used to bypass the accounting system.

(G) The Clerk-Treasurer shall be notified immediately if a credit card is lost or stolen.

(H) The Town Council or the Clerk-Treasurer is authorized to revoke credit cards that have been used in violation of town policy.

(I) This section is adopted in compliance with the *State Board of Accounts Manual for Cities and Towns* authorizing a town to use credit cards for purchases.

(Ord. 2010-06, passed - -2010)

§ 34.09 ELECTRONIC FUND TRANSFERS.

(A) *Electronic fund transfers.* The town of is hereby authorized to use electronic fund transfers for official business of the town.

(B) *Authority of Clerk-Treasurer.* The Clerk-Treasurer is hereby authorized and responsible for:

(1) Selecting the financial institution(s) to be used by the town for electronic fund transfers;

(2) Executing the application and agreement with the selected financial institution(s) for the town;

(3) Overseeing the use of electronic fund transfers for official town business;

(4) Maintaining the agreement and relationship between the town and the financial institution(s);

(5) Establishing appropriate security procedures for passwords, codes, controls and other authorizations to protect and preserve the funds and assets of the town; and

(6) Reviewing all transactions and confirmations in connection with the use of electronic fund transfers for proper authorization, documentation, itemization and purpose.

(C) Administration of payments.

(1) The Clerk-Treasurer shall not draw a warrant for an electronic fund transfer unless:

(a) There is a fully itemized invoice or bill for each expenses;

(b) Each invoice or bill is approved by the town employee or representative receiving the goods or services;

(c) The invoice or bill is filed with the Clerk-Treasurer;

(d) The Clerk-Treasurer audits and certifies before payment that the invoice or bill is true and correct; and

(e) Payment of the invoice or bill is allowed by the Town Council at a proper public meeting for those items requiring Council approval.

(2) All electronic fund transfers must be for official business of the town and shall not be personal in nature.

(D) *Electronic fund transfers.* Electronic fund transfers shall include automated clearinghouse (ACH) payments, automated teller machine (ATM) transactions, wire transfers, direct deposit, on-line

banking transactions, telephone transfers and other electronically authorized or implemented transfers or payments.

(Res. 2012-3, passed 8-8-2012)

(7) Other purposes the Town Council deems are directly related to the promotion and betterment of the town.

(Ord. 2013-14, passed 11-4-2013)

§ 34.10 PROMOTING MUNICIPAL BETTERMENT.

(A) The Town Council is hereby authorized to budget and appropriate funds from the General Fund or from other funds to pay the expenses incurred in promoting the betterment of the municipality.

(B) These expenses may include, but are not necessarily limited to, the following:

(1) Membership dues in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal operations.

(2) Direct expenses for travel, meals and lodging in conjunction with municipal business, meetings or organizations to which the municipality belongs.

(3) Expenses incurred in the promotion of tourism, residential development, economic or industrial development for the municipality, including meeting room rental, decorations, meals, travel, and promotional booths.

(4) Commemorative plaques, certificates or objects such as commemorative keys.

(5) An annual employee dinner to promote the betterment and morale of town employees.

(6) Items to recognize employees such as a retirement gift, cake, dinner, and the like, and gifts such as flowers for an illness of an employee or a death in the family.

BUDGETS

§ 34.20 PREPARATION OF ANNUAL BUDGET ESTIMATES.

Before the publication (before January 1, 2015) and 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 Town Fiscal Officer 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 Fiscal Officer to review and revise their various estimates.

(D) After the President's review and revision, the Fiscal Officer 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

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

The Town Fiscal Officer 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 Fiscal Officer. The Town Council shall promptly act on the appropriation ordinance.
(I.C. 36-5-3-4)

§ 34.22 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)

***CUMULATIVE CAPITAL
DEVELOPMENT FUND*****§ 34.35 DECLARATION.**

There is re-established a Town Cumulative Capital Development Fund.
(Prior Code, § 33.01) (Ord. 72-1, passed 2-7-1972; Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.36 AD VALOREM TAX.

An ad valorem property tax shall be imposed and the revenues from the levy will be retained in the Town Cumulative Capital Development Fund.
(Prior Code, § 33.02) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.37 MAXIMUM RATES.

The maximum rate of levy under § 34.36 will not exceed \$0.15 per \$100 assessed valuation.
(Prior Code, § 33.03) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.38 USES.

The funds accumulated in the Town Cumulative Capital Development Fund will be used for a municipal building, town drainage, streets and other purposes permitted under I.C. 36-9-15.5-2.
(Prior Code, § 33.04) (Ord. 72-1, passed 2-7-1972; Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.39 OTHER USES.

Notwithstanding § 34.38, funds accumulated in the Town Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in § 34.38, if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Town Council President issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the Fund.
(Prior Code, § 33.05) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.40 APPROVAL BY DEPARTMENT OF LOCAL GOVERNMENT FINANCE.

This subchapter and the Fund re-established hereunder shall take effect from and after its passage and approval of the Fund by the State Board of Tax Commissioners.

(Prior Code, § 33.06) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

***NON-SUFFICIENT FUND CHECKS
AND BAD DEBTS***

§ 34.55 HANDLING OF NON-SUFFICIENT FUND CHECKS.

(A) The town shall charge a fee to persons delivering a check which is refused by the financial institution for any reason. This fee will be the greater of \$27.50 or 5% of the face value of the check. This charge will not exceed \$250

(B) The town shall further implement the following procedures upon the receipt of returned checks:

(1) Payments of returned checks must include the above fees, and must be paid by cash, money order, or credit card;

(2) Partial payment on returned checks will not be accepted;

(3) Returned checks outstanding for greater than 15 days will be sent to the County Prosecutor for further action;

(4) If the utility payment due date has not passed, the utility customer shall have until the payment is due to make payment without risk of losing utility services;

(5) If the utility payment due date has passed, the utility customer shall have applicable penalties applied and utility services shut off at the town's earliest convenience (reconnect fees will apply);

(6) After the third payment is refused by the financial institution, the customer shall no longer have rights to present checks as payment for utility services.

(C) The town recognizes most financial institutions make two attempts to honor a check presented. The town is currently assessed a fee when the first attempt to honor a check fails. If the first attempt to honor a check fails, however the second attempt is successful, the town will assess only the charge assessed by the financial institution to the customer.

(D) This section is adopted in compliance with the *State Board of Accounts Manual for Cities and Towns* authorizing a town create a policy concerning non-sufficient fund checks received.

(E) This section shall be in full force and effect 9-13-2010.
(Ord. 2010-10, passed - -)

§ 34.56 BAD DEBT WRITE-OFF POLICY.

(A) *Accounts in arrears.* Accounts are considered in arrears if not paid by the due date.

(1) For accounts 30 days past due, the town's shut-off policy applies.

(2) For accounts 60 days past due, a lien shall be filed on the property.

(3) For accounts 120 days past due:

a. Accounts with amounts due that have not had a lien filed, such as when a property has exchanged hands, will be evaluated;

b. If an account has a balance of over \$100, the account shall be reported to a collections agency.

(B) *Factors for consideration of write-off.*

(1) Debt has been inactive three or more years and the avenues listed above have been exhausted to collect the outstanding debt, and the debt is currently deemed uncollectable; or

(2) The customer has passed away; or

(3) For other reasons the Town Council deems just and fitting to warrant a write-off.

(C) *Annual review.* At least annually, the Town Clerk-Treasurer shall present a list of uncollectable accounts to the Town Council for consideration of a write-off. Upon approval, the Clerk-Treasurer shall then make adjustments to customer accounts.

(Ord. 2012-01, passed 1-9-2012)

RAINY DAY FUND

§ 34.60 RAINY DAY FUND.

(A) *Fund established.* The Town of Dayton hereby establishes a Rainy Day Fund to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains. The Rainy Day Fund may also receive excess economic development income tax (EDIT) payments, excess county option income tax (COIT) payments, and other sources not otherwise prohibited by law and deemed appropriate by the Town Council.

(B) *Transfers to Fund.* On or before December 31 of each year, the Town Council shall determine the

amount, if any, of any unused and unencumbered funds available to be transferred to the Rainy Day Fund. Such transfer may not exceed 10% of Dayton's annual budget for any fiscal year.

(C) *Use of Fund.* The town may use the Rainy Day Fund as follows:

(1) Capital expenditures not otherwise budgeted for;

(2) To meet the town's matching portion of grants received;

(3) Other uses as allowed by the Indiana Code and deemed appropriate by the Town Council, such as, but not limited to, salaries and wages, costs of services, supplies, equipment, repairs, and similar expenditures.

(D) *Other transfers.* The Town Council may also authorize at any time a transfer from the Rainy Day Fund to the town's General fund or any other appropriated fund of the town.

(E) *Appropriations.* If so required, appropriations of the Rainy Day Fund shall be made through the Department of Local Government Finance prior to any expenditure of the Fund.
(Ord. 2011-6, passed 7-11-11)

WASTEWATER UTILITY DEBT RESERVE FUND

§ 34.65 WASTEWATER UTILITY DEBT RESERVE FUND.

(A) *Established.* The town establishes the Wastewater Utility Debt Reserve Fund.

(B) *Transfer.* The town wishes to transfer the amount of \$21,750, or the balance necessary to satisfy

the requirements of the Wastewater Revenue Bonds of 1978, from the Wastewater Bond and Interest Fund.

(C) *Effective.* The ordinance codified herein shall be in full force and effect 9-13-2010.
(Ord. 2010-13, passed - -)

WATER UTILITY DEBT FUND

§ 34.75 WATER UTILITY DEBT RESERVE FUND.

(A) *Established.* The town establishes the Water Utility Debt Fund.

(B) *Transfer, Water Improvement Fund.* The town wishes to transfer the Water Improvement Fund Balance of &36,369 to the Water Debt Reserve Fund.

(C) *Transfer, Water Operating Fund.* The town wishes to transfer the amount of \$104, 364, or the balance necessary to satisfy the requirements of Ordinance 98-7, from the Water Operating Fund.

(D) *Effective.* The ordinance codified herein shall be in full force and effect 9-13-2010.
(Ord. 2010-14, passed - -)

FUND 257

§ 34.85 FUND 257.

(A) The town establishes the Fund 257.

(B) Seventy-five percent shall be placed into Fund 257 and used for local road and streets budgeted for budget year 2017; and

(C) Twenty-five percent shall be placed into the town's Rainy Day Fund.
(Ord. 2016-05, passed 6-6-2016)

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

Section

35.01	Establishment	Violations Clerk for purposes of this chapter.
35.02	Violations Clerk designated	(I.C. 33-36-2-2)
35.03	Duties of Clerk	<i>Cross-reference:</i>
35.04	Schedule of fines	<i>Town Clerk to be Town Fiscal Officer, see</i>
35.05	Right to trial	<i>§ 32.003</i>
35.06	Denial; exercise of the right to trial	
35.07	Failure to appear or to satisfy assessed civil penalty; report; prosecution	
35.08	Court costs fee; admitted violations	
35.09	Disposition of civil penalties and costs collected	
35.10	Litigation to enforce ordinances	

§ 35.03 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 legislative body, but not more than \$250.
(I.C. 33-36-2-3)

§ 35.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.
(I.C. 33-36-2-1)

§ 35.02 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 or 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 § 35.01, the Clerk or Clerk-Treasurer of the town is designated the

§ 35.04 SCHEDULE OF FINES.

(A) Upon the appointment or designation of the Violations Clerk as provided by § 35.01, 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)

§ 35.05 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 § 35.04.
(I.C. 33-36-3-2)

§ 35.06 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)

§ 35.07 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)

§ 35.08 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. 33-37-7-5 or I.C. 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.
(I.C. 33-36-3-6)

§ 35.09 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.
(I.C. 33-36-3-7)

§ 35.10 LITIGATION TO ENFORCE ORDINANCES.

In the event the town institutes litigation to enforce any of the ordinances that are a part of this Ordinance Violations Bureau, if the town prevails, it is entitled to recover, in addition to any fine imposed, court costs and costs of litigation including a reasonable attorney fee.

CHAPTER 36: TOWN POLICIES

Section

Tort Claims Against Town

- 36.01 Clerk-Treasurer to receive notice
- 36.02 Form and service of notice

Anti-Nepotism Policy

- 36.15 Exclusions
- 36.16 Definitions
- 36.17 Employment of relatives
- 36.18 Contracting practices with relatives

TORT CLAIMS AGAINST TOWN

§ 36.01 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.

§ 36.02 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.

ANTI-NEPOTISM POLICY

§ 36.15 EXCLUSIONS.

(A) An individual who is employed by the town on July 1, 2012, is not subject to these policies unless the individual has a break in employment with the town. Breaks in employment do not include the following:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick or family medical leave, or worker's compensation.

(2) The individual's employment with the town is terminated followed by immediate re-employment by the town, without loss of payroll time.

(B) These policies do not apply to performance of duties as a:

(1) Precinct election officer as defined in I.C. 3-5-2-40.1; or

(2) Volunteer firefighter.

(C) An employment contract with the town is not abrogated or affected that:

(1) An individual is a party to; and

(2) Is in effect on the date the individual's relative begins serving a term of an elected office of the town.

(Res. 2012-2, passed 6-4-2012)

§ 36.16 DEFINITIONS.

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

DIRECT LINE OF SUPERVISION. An elected official or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a town, as provided by law, to make decisions regarding salary ordinances, budgets or personnel policies of the town.

ELECTED OFFICIAL.

- (a) The Town Clerk;
- (b) A member of the Town Council.

EMPLOYED. An individual who is ***EMPLOYED*** by the town on a full-time, part-time, temporary, intermittent or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the town.

MEMBER OF THE POLICE DEPARTMENT. The Town Marshal or a police officer appointed to the Department.

RELATIVE. Any of the following:

- (a) A spouse;
- (b) A parent or stepparent;
- (c) A child or stepchild;
- (d) A brother, sister, stepbrother or stepsister;
- (e) A niece or nephew;

(f) An aunt or uncle; or

(g) A daughter-in-law or son-in-law.

An adopted child of an individual is treated as a natural child of the individual. The terms "brother" and "sister" include a brother or sister by the half blood.

TOWN. The Town of Dayton, Indiana.
(Res. 2012-2, passed 6-4-2012)

§ 36.17 EMPLOYMENT OF RELATIVES.

(A) An individual who is a relative may not be employed by the town in a position that results in one relative being in the direct line of supervision of the other relative.

(B) With regard to an individual who:

(1) Is employed by the town on the date the individual's relative begins serving a term of an elected office of the town; and

(2) Is not exempt from the application of this statute;

the individual may remain employed by a town and maintain the individual's position or rank, even if the individual's employment would violate the prohibition against one relative being in the direct line of supervision of the other relative.

(C) The individual described above in division (B) may not:

(1) Be promoted to a position; or

(2) Be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department;

if the new position would violate the prohibition against one relative being in the direct line of supervision of the other relative.
(Res. 2012-2, passed 6-4-2012)

§ 36.18 CONTRACTING PRACTICES WITH RELATIVES.

(A) The town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) An individual who is a relative of an elected official; or

(2) A business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements below are satisfied and the elected official does not violate I.C. 35-44.1-1-4.

(B) The town may enter into a contract or renew a contract with an individual or business entity described in division (B) above if:

(1) The elected official files with the unit a full disclosure, which must:

(a) Be in writing;

(b) Describe the contract or purchase to be made by the town;

(c) Describe the relationship that the elected official has to the individual or business entity that contracts or purchases;

(d) Be affirmed under penalty of perjury;

(e) Be submitted to the legislative body of the town and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and

(f) Be filed, not later than 15 days after final action on the contract or purchase, with:

1. The State Board of Accounts;

and

2. The clerk of the circuit court in the county where the unit takes final action on the contract or purchase;

(2) The appropriate agency of the unit:

(a) Makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(b) Makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) The unit satisfies any other requirements under I.C. 5-22 or I.C. 36-1-12.

(C) An elected official must also comply with the disclosure provisions of IC 35-44.1-1-4, if applicable.

(D) These provisions do not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

(Res. 2012-2, passed 6-4-2012)

CHAPTER 37: ELECTIONS

Section

Wards and Districts

- 37.01 Wards
- 37.02 Boundaries
- 37.03 Ward map

Elections

- 37.15 Election of Town Council members

Effective

- 37.25 Effective date

WARDS AND DISTRICTS

§ 37.01 WARDS.

The number of wards in the town is hereby fixed at two.

(Prior Code, § 32.01) (Ord. 71-4, passed 6-7-1971; Ord. 82-15, passed 12-6-1983; Ord. 92-4, passed 12- -1992; Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

§ 37.02 BOUNDARIES.

The Town of Dayton, Indiana, pursuant to I.C. 36-5-2-4.1, is hereby divided into the following election districts and wards, having the following boundaries. All boundaries where streets or alleys are used shall be to the centerline of the street, alley or railroad tracks.

(A) *Ward 1.*

Commencing at the intersection of SR 38, being Walnut Street, and Shakamak Court, thence north on Shakamak Court to its intersection with College Street; thence east on College Street to its intersection with Conjunction Street; thence north on Conjunction Street to its intersection with Cagles Mill Drive; thence following Cagles Mill Drive west and south to its intersection with Shakamak Court; thence following Shakamak Court north and west to the northern most boundary of the Town of Dayton; thence following the boundary line of the Town of Dayton east to the eastern most boundary of the Town of Dayton; thence following the boundary line south, east, and west to its intersection with Dayton Road; thence following Dayton Road north to its intersection with SR 38 at the place of beginning.

(B) *Ward 2.*

Commencing at the intersection of Dayton Road with the southern most boundary of the Town of Dayton, thence north on Dayton Road to its intersection with College Street; thence east on College Street to its intersection with Conjunction Street; thence north on Conjunction Street to its intersection with Cagles Mill Drive; thence following Cagles Mill Drive south and

west to its intersection with Shakamak Court; thence following Shakamak Court north and west to its intersection with the northern most boundary of the Town of Dayton; thence following the boundary line west, south and east to the place of beginning.

(Prior Code, § 32.01) (Ord. 71-4, passed 6-7-1971; Ord. 75-2, passed - -1975; Ord. 75-8, passed 9-8-1975; Ord. 82-15, passed 12-6-1983; Ord. 92-4, passed 12- -1992; Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

EFFECTIVE

§ 37.25 EFFECTIVE DATE.

The ordinance codified herein shall be effective on January 1 following its adoption, being 1-1-2011. (Ord. 2010-21, passed 10- -2010)

§ 37.03 WARD MAP.

A map of the ward boundaries as above set forth in § 37.02 is incorporated by reference hereby, and a copy of same is on file with the Town Clerk.

(Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

ELECTIONS

§ 37.15 ELECTION OF TOWN COUNCIL MEMBERS.

(A) One member of the Town Council shall be elected from each ward by the voters of the ward in which the member resides and three members of the Town Council shall be elected at large by the voters of the whole Town.

(B) Seat 1 of the Town Council shall be elected from Ward 1, Seat 2 shall be elected from Ward 2, and Seats 3, 4 and 5 shall be elected at large.

(Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

TITLE V: PUBLIC WORKS

Chapter

- 50. GENERAL PROVISIONS**
- 51. GARBAGE**
- 52. WATER**
- 53. SEWERS**
- 54. STORMWATER MANAGEMENT**

CHAPTER 50: GENERAL PROVISIONS

Section

- 50.01 Acceptance of credit and debit cards
for payment

§ 50.01 ACCEPTANCE OF CREDIT AND DEBIT CARDS FOR PAYMENT.

The town will accept payment by credit card or bank card for water, sewage and trash services and for meter deposits owed the town. For purposes of this section, ***CREDIT CARD*** shall include debit card, charge card or stored value card. Any charge to the town for use of the credit card or bank card by the payor will not be collected from the payor.
(Ord. 09-02, passed 4-6-2009)

CHAPTER 51: GARBAGE

Section

- 51.01 Definitions
- 51.02 Container required
- 51.03 Container out of sight
- 51.04 Container required for solids
- 51.05 Solids containers must be kept out of sight
- 51.06 Waste must be covered
- 51.07 Visible waste restricted
- 51.08 Keeping on property of another prohibited
- 51.09 Hauling
- 51.10 Solid waste collection and disposal

- 51.99 Penalty

§ 51.01 DEFINITIONS.

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

GARBAGE. Kitchen and table refuse from cooking, processing, preparing and serving human foods and drinks, any vegetable or animal matter abandoned by the prior possessor thereof or intended by the possessor for disposal, every accumulation vegetable and animal matter that attends the preparation, keeping, dealing in or storage of meats, fish, seafoods, fowl, birds, vegetable, milk or other substance that can be used as human food and intended for disposal other than by human consumption at the time of the disposal. **GARBAGE** shall not include any dishwater or waste water.

GARBAGE CONTAINER. A metal or plastic can or container with suitable cover so as to prevent the escape of any odor therefrom. A plastic bag designed for disposal of garbage which does not permit the escape of any odor therefrom. Any metal or plastic can or container without suitable cover or broken plastic bag shall not be considered a **GARBAGE CONTAINER**.

PERSON. Includes an individual, corporation, partnership or any other legal entity.

SOLIDS. Stone, sand, dirt, gravel, brickbats, broken dishes, bottles, cans, pottery, old iron, junk metals, plastics and all other substances of a permanent nature and as such are not subject to speedy decay or the generation of noxious and offensive odors. Any of the above items disposed of in the same container as garbage or mixed therewith shall be considered garbage.

SOLIDS CONTAINER. Any container of a size that can be lifted and carried by one person and of sufficient size to hold all the solids placed therein below the top level of the container.

WASTE. Broken or cut down trees, tree limbs, brushy shrubs and the trimmings therefrom, leaves, old rags, paper sweepings, wooden or paper boxes, crates, sacks and all other debris and accumulation of waste from dwelling or business establishment as are not within the definition of garbage or solids.
(Prior Code, § 53.01) (Ord. 79-5, passed 6-4-1979)

§ 51.02 CONTAINER REQUIRED.

It shall be unlawful for any person to place or deposit any garbage outside of any residential or business establishment or upon any right-of-way adjacent thereto, unless same is within a garbage container.

(Prior Code, § 53.02) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.03 CONTAINER OUT OF SIGHT.

It shall be unlawful for any person to keep a garbage container, with or without garbage therein, on the property occupied or used by the person, where the container can be seen from the street fronting the property, or on the right-of-way adjacent thereto for a period of more than 24 hours following garbage pickup.

(Prior Code, § 53.03) (Ord. 79-5, passed 6-4-1979;
Ord. 16-2, passed 5-2-2016) Penalty, see § 51.99

§ 51.04 CONTAINER REQUIRED FOR SOLIDS.

It shall be unlawful for any person to place or deposit any solids outside of a residential or business establishment or upon any right-of-way adjacent thereto, unless same is in a garbage or solids container.

(Prior Code, § 53.04) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.05 SOLIDS CONTAINERS MUST BE KEPT OUT OF SIGHT.

It shall be unlawful for any person to keep a solids container on the property occupied or used by the person, where the container can be seen from the street fronting the property, or on the right-of-way adjacent thereto, for a period of more than 24 hours following garbage pickup.

(Prior Code, § 53.05) (Ord. 79-5, passed 6-4-1979;
Ord. 16-2, passed 5-2-2016) Penalty, see § 51.99

§ 51.06 WASTE MUST BE COVERED.

It shall be unlawful for any person to keep waste outside of a residential or business establishment without cover therefore where the waste is susceptible to being blown by the wind from the place deposited. (Prior Code, § 53.06) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.07 VISIBLE WASTE RESTRICTED.

It shall be unlawful for any person to keep any waste on the property occupied or used by the person, where the waste can be seen from the street fronting the property, or in the right-of-way adjacent thereto, for a period or more than five successive days.

(Prior Code, § 53.07) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.08 KEEPING ON PROPERTY OF ANOTHER PROHIBITED.

It shall be unlawful for any person to place, deposit or keep any garbage, garbage container, solids, solid containers or waste on any public street or alley within the town or on any property not then and there occupied or used by the person.

(Prior Code, § 53.08) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.09 HAULING.

It shall be unlawful for any person to transport, carry or haul any garbage, solids or waste over any street, alley or other public way or place except in closed or covered trucks designed to prevent any garbage, solid or waste to be blown therefrom, to drop therefrom, or to permit offensive or noxious odors to escape therefrom when loaded.

(Prior Code, § 53.09) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.10 SOLID WASTE COLLECTION AND DISPOSAL.

(A) The town shall provide solid waste collection and disposal to the citizens of the town.

(B) The service shall be provided to the incorporated area to the town.

(C) Service shall be provided by contracting with an outside contractor.

(D) The charge for the monthly service will be fixed by the Town Council from time to time. The charge shall be billed separately even though it is established as a service of the sewage utility.

(E) The method of payments for user charges shall be monthly due on the last day of each month with the payments to be made to the Clerk-Treasurer of the town.

(F) Penalty shall be assessed in the amount of 10% for late payments.

(G) Revenues shall be restricted to the amount reasonably related to the cost of providing this service. An accounting shall be so that documentation will be provided so as to comply with all statutes and regulations.

(Ord. 98-3, passed 3-23-1998; Ord. 06-05, passed 6-5-2006)

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person who does any act done in violation of §§ 51.01 through 51.09 shall be punished by a fine not to exceed \$300. Every day any violation of §§ 51.01 through 51.09 shall continue shall constitute a separate offense.

(Prior Code, § 53.10) (Ord. 79-5, passed 6-4-1979)

CHAPTER 52: WATER

Section

<i>Water Utility</i>	
52.01	Definitions
52.02	Required use
52.03	Construction of lateral service
52.04	Separate service laterals
52.05	Tapping city supply
52.06	Tap permit
52.07	Water meters
52.08	Connection to private supply
52.09	Swimming pool recirculation
52.10	Additions to conduit pipes and stopcocks
52.11	Stopcock box not to be concealed
52.12	Maintenance of service laterals
52.13	Inspection of premises
52.14	Disconnection
52.15	Use of fireplugs
52.16	Additions to waterworks
52.17	Rates and charges
52.18	Withdrawal from jurisdiction of State Utility Regulatory Commission

Backflow Prevention

52.30	Responsibility
52.31	Definitions
52.32	Water system requirements
52.33	Compliance
52.34	Inspection
52.35	Discontinuation of service
52.36	Installation of backflow prevention assembly
52.37	Type of protective assembly
52.38	Approval of backflow prevention assembly
52.39	Adoption of standards by reference

52.40	Duty to test and repair
52.41	Exemptions
52.42	Certification of testers
52.99	Penalty

WATER UTILITY

§ 52.01 DEFINITIONS.

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

BOARD. The Utility Service Board of the town.

CLERK-TREASURER. The duly qualified and acting **CLERK-TREASURER** of the town.

OWNER. The record owner of a tract of real estate as shown by the records of the Auditor of the county, which tract of real estate is served or is required to be served as a user or users.

PERSON. An individual, firm, company, partnership, corporation, association, society, institution, enterprise, governmental agency or other entity.

PRIVATE SUPPLY. Any individual, industrial, commercial or private water system.

SERVICE LATERAL. The water main that transmits water from the town conduit main located in a public easement or right-of-way, through the owner's property to its point of use.

SUPERINTENDENT. The person or persons appointed by the Utility Service Board, including a designated member of the Board, to manage the day to day physical operation of the waterworks.

TOWN SUPPLY. The water system of the town waterworks.

USER. An individual residential, commercial or industrial structure or unit which obtains water or is served with water from the town waterworks.

WATERWORKS. The water system of the town including separately and collectively all wells, pumps, building, pits and transmission and conduit mains that are used to obtain water from the ground and transmit same to the user.
(Prior Code, § 52.01)

§ 52.02 REQUIRED USE.

The owner of all real estate which is adjacent to a conduit main of the waterworks, upon which real estate is located a residential, commercial, industrial or other buildings used for human occupancy, employment or recreation is hereby required to connect by a service lateral to the town waterworks. It shall be a violation of this subchapter not to make the connection required herein 90 days after written notice to do so has been given to the owner by the town.
(Prior Code, § 52.02) Penalty, see § 52.99

§ 52.03 CONSTRUCTION OF LATERAL SERVICE.

The size, shape, alignment, materials of construction of service laterals and the method used in excavating, placing the pipe, jointing, testing and

backfilling the trench shall conform to the requirement of the building and plumbing codes and other applicable rules and regulations of the town.
(Prior Code, § 52.03)

§ 52.04 SEPARATE SERVICE LATERALS.

A separate and independent service lateral shall be provided for each user, except where approval is otherwise given by the Board where multiple units are placed under a common and integral roof.
(Prior Code, § 52.04)

§ 52.05 TAPPING CITY SUPPLY.

Except upon application and permit as herein provided for, it shall be unlawful for any person, except the Superintendent of the waterworks and those employed by him or her or by the Board, to tap or make any connection with the city supply, nor shall any person make, establish or maintain any physical connection with any private supply.
(Prior Code, § 52.05) Penalty, see § 52.99

§ 52.06 TAP PERMIT.

(A) Prior to making any tap into the conduit mains of the town or connecting any service lateral thereto, the owner or his or her agent shall make application therefore to the town upon forms furnished therefor. The application shall be accompanied by plans, specifications, plat plan showing the location of the service lateral and point of connection to the waterworks, and any additional information that the Board or Superintendent may require. Except for owners in Prestwick Manor subdivision, a connection fee in the amount of \$400 for a tap of five-eighths-inch diameter shall be paid to the Clerk-Treasurer at the time the application is filed. If the tap is greater than five-eighths inches, the fee shall be the cost of time and material in addition to \$400. A permit and inspection fee of \$25 shall be paid to the Clerk-Treasurer at the time the application is filed. In

addition the owner shall pay to the Clerk-Treasurer the sum of \$35 as deposit for use as hereinafter provided. The Superintendent shall issue the permit within seven days of filing of the application, or within the time notify the owner or his or her agent what is additionally required before the permit will be issued.

(B) The connection to the town waterworks shall conform to the requirements of the building and plumbing code, any conditions on the permit, and other applicable rules and regulations of the town.

(C) The owner or his or her agent shall notify the Superintendent or the Clerk-Treasurer prior to covering any excavation when the connection is ready to be made. The connection shall be under the supervision of the Superintendent, who shall also inspect the service lateral and approve same.

(D) All excavations for service lateral shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Prior Code, § 52.06) (Ord. 96-11, passed 12-9-1996)

§ 52.07 WATER METERS.

(A) The owner shall install a water meter in the service lateral at a point adjacent to the conduit main as determined by the Superintendent. The meter shall be furnished by the town and shall remain the property of the town.

(B) In Prestwick Manor subdivision, meters shall be furnished by the owner but become the property of the town.

(C) A meter shall be installed for each user, unless in those instances where there are multiple users or units placed under a common and integral roof, in which case the Board may approve one or more meters for more than one user.

(D) The town shall maintain all meters in good working order; however, any damage caused to meters, other than damage caused by the town or its agents or employees or by normal wear and tear, shall be chargeable to the owner, and the cost and expense of repairing the damage shall be paid by the owner. (Prior Code, § 52.07) (Ord. 89-1, passed 7-10-1989)

§ 52.08 CONNECTION TO PRIVATE SUPPLY.

No person shall establish or maintain any physical connection of the town supply with any private supply.

(Prior Code, § 52.08) Penalty, see § 52.99

§ 52.09 SWIMMING POOL RECIRCULATION.

No person shall establish or maintain any physical connection of the city supply with any swimming pool recirculation system.

(Prior Code, § 52.09) Penalty, see § 52.99

§ 52.10 ADDITIONS TO CONDUIT PIPES AND STOPCOCKS.

It shall be unlawful for an owner whose premises are connected with the town supply to make or allow to be made any addition in or about any conduit pipes or stopcocks on the premises, unless the same is by permission and under the direction of the Superintendent.

(Prior Code, § 52.10) Penalty, see § 52.99

§ 52.11 STOPCOCK BOX NOT TO BE CONCEALED.

It shall be unlawful for any person, in paving or relaying sidewalks, to pave over and conceal the stopcock boxes attached to service laterals, but in every instance where it is desired to raise the grade of the sidewalks above the top of the stopcock boxes,

notice shall be given by the owner of the premises to the Superintendent in order that he or she may lengthen the stopcock box to conform with the new grade.

(Prior Code, § 52.11) Penalty, see § 52.99

§ 52.12 MAINTENANCE OF SERVICE LATERALS.

(A) After a service lateral has been connected into the conduit main and the connection has been approved by the Superintendent, it shall become the responsibility of the town to service, maintain and make necessary repairs to the service lateral from its connection with the conduit main up to the stopcock box and to the stopcock box. However, any damages caused to the stopcock box, other than damage caused by the town or its agents or employees or by normal wear and tear, shall be chargeable to the owner and the cost and expense of repairing the damage shall be paid by the owner.

(B) It shall be the responsibility of the owner to service, maintain and make necessary repairs to the service lateral from the stopcock box to its point of use. Any damage to the portion of the service lateral running from the stopcock box to its point of use shall be immediately repaired by the owner. All repairs shall be inspected and approved by the Superintendent. In the event that the owner fails to make the immediate repairs, the town shall perform same and the cost and expense of the repairs shall be chargeable to and paid by the owner.

(Prior Code, § 52.17) (Ord. 89-1, passed 7-10-1989)

§ 52.13 INSPECTION OF PREMISES.

Every person whose premises are connected with the town supply shall, at all reasonable times, permit the Superintendent and all persons employed by the Board to enter in and upon the premises to examine the pipes and apparatus thereon, and the manner in which water is used on the premises.

(Prior Code, § 52.12)

§ 52.14 DISCONNECTION.

Upon the failure of any owner to pay any charges or fees made payable under the subchapter within 30 days of the date the charge or fee is due, the Board, in addition to any other remedy provided for herein, may direct the Superintendent to disconnect the delinquent owner from the town supply, and may impose any conditions it deems reasonable on reconnecting. Prior to making any disconnection, the Clerk-Treasurer shall give a written ten-day notice of the ordered disconnection by registered mail to the owner at the address given on the records of the County Auditor, or other address theretofore given by the owner. It shall be unlawful for any person upon whose premises the town supply is used, after the water has been shut off or disconnected from the premises, to let on the water or to let the water run from his or her hydrants, or to authorize, cause, suffer or permit the water to be let on, unless the same is done by or under the direction of the Superintendent.

(Prior Code, § 52.13)

§ 52.15 USE OF FIREPLUGS.

(A) A rental fee of \$234 per year shall be paid to the Water Utility for each fire hydrant once the hydrants are connected to the town's water system supplied by the City of Lafayette.

(B) It shall be unlawful for any person to open any fireplug appurtenant to the waterworks or to draw water therefrom, excepting the Superintendent and persons under his or her direction, and the Chief of any fire department serving the town, and the members thereof under his or her direction, and for the purpose of extinguishing fire or for cleaning their engines or hoses or for the purpose of making trials of their engines or equipment at a meeting of the company having charge of the engines. Nothing herein shall permit the fire departments to fill any water tanks or tankers.

(Prior Code, § 52.14) (Ord. 96-11, passed 12-9-1996) Penalty, see § 52.99

§ 52.16 ADDITIONS TO WATERWORKS.

(A) No additions to the waterworks shall be made or accepted as part of the waterworks, by the Board nor shall there be any responsibility on the part of the town or Board to repair or maintain same, unless the additions are made in accordance with this section.

(B) A person desiring to make an addition to the waterworks shall present to the Board his or her request for the addition and advise the Board of the needs to be served by the addition. The Board may reject the request, or may require the applicant to hire an engineer selected by the Board to provide the Board with a detailed study on the then capacity and pressure of the waterworks and an engineering report on the capacity and pressure if the addition to the waterworks were made. The Board can further require detailed plans and specifications. If the Board is satisfied that the addition can be made without adverse effect on the then present users, the Board may approve the addition.

(C) Water mains shall be constructed and installed within the rights-of-way of dedicated public streets, dedicated public alleys or dedicated public easements of the width as the Board shall approve. The water mains shall not occur under the portion of public streets used for vehicle travel, nor shall they occur under any concrete or bituminous pavement of streets or sidewalks, except those portion of mains which shall pass transversely thereunder and in direction perpendicular to the direction of travel upon the pavement; provided that the transverse portions of mains shall not include any service tap, service lateral, valve, connection to another main, change in direction or change of pipe size. Water mains and the appurtenances thereto may occur under the traveled portion or paved portion of any alley.

(Prior Code, § 52.15)

§ 52.17 RATES AND CHARGES.

There are hereby established for the use of and the service rendered by the waterworks of the town the following rates and charges.

(A) There is hereby fixed a minimum monthly charge for each residential user of \$29.75, for which the user will be entitled to 3,000 gallons of water per month. In addition to the monthly minimum charge, a residential user shall pay \$9.96 per 1,000 gallons or any part thereof from 3,000 to 10,000 gallons; an additional \$4.99 per 1,000 gallons or any part thereof from 10,000 to 15,000 gallons; and an additional \$1.65 per 1,000 gallons or any part thereof over 15,000 gallons.

(B) Until a time as an owner is connected to the waterworks pursuant to § 52.02 and assessed costs as set forth in division (A) above, the owner shall be charged the fixed rate of \$12.66.

(C) Where the Board has authorized one meter for multiple users or units, then the owner shall pay a minimum charge for each unit served by the meter, and shall be entitled thereby to the gallonage usage provided in division (A) above, times the number of users or units. The excess gallonage usage as provided for in division (B) above shall apply thereafter to the one meter.

(D) If an owner requests the Superintendent or the Board to disconnect his or her water, then no minimum charge shall accrue or become payable until the owner requests the Superintendent to reconnect and the reconnection is made. The owner shall pay a fee of \$25 to the Clerk-Treasurer each time the water is disconnected and a fee of \$25 to reconnect.

(E) All owners shall, prior to connection with the waterworks and town supply, pay to the Clerk-Treasurer a deposit for each meter. The water meter deposit shall be \$125, with \$75 payable upon having the water service turned on, and with the remaining \$50 due 30 days thereafter. The deposits shall be deposited in a waterworks account specifically for deposits of owners. Upon action by the Board to disconnect service pursuant to § 52.14 for delinquent payment of charges or fees, the Board may direct the Clerk-Treasurer to withdraw the owner's deposit and credit it to the delinquent charges. Before service can thereafter be reconnected, a new deposit must be paid.

(F) All services provided by the waterworks shall be for the owner, and all charges and fees herein provided for shall be billed and charged to the owner and same shall be the owner's obligation. Billings shall be made by the Clerk-Treasurer on a monthly basis and shall be mailed by the Clerk-Treasurer to the owner at the address on file at the County Auditor's office or another address as the owner may in writing give to the Clerk-Treasurer.

(G) All bills for water service not paid within 15 days from the due date thereof, as stated in the bill, shall be subject to a collection or deferred payment charge of 10%.

(H) There shall be and there are hereby established for those customers having private fire protection sprinklers the following annual rates and charges.

<i>Size</i>	<i>Charge</i>
1-1/2-inch line	\$166.70
2-inch line	\$194.40
2-1/2-inch line	\$249.90
3-inch line	\$305.40
4-inch line	\$388.80
5-inch line	\$583.10
6-inch line	\$777.30
8-inch line	\$1,666.00
10-inch line	\$2,082.40

(I) (1) A tenant/owner of property in the town whose account is 30 days or more in arrears and with a balance of \$25 or more will be subject to a temporary disconnection of service on the first day of the following month. This disconnection will be subject to a \$25 reconnection fee once the arrears are paid in full. The arrears must be paid by cash, money order, cashier's check or credit card only.

(2) Reconnection of water service shall not be authorized by any person, other than the Town Utility Clerk or Deputy Utility Clerk, once all the arrears are paid in full.

(Prior Code, § 52.18) (Ord. 96-11, passed 12-9-1996; Ord. 98-12, passed 10-23-1998; Ord. 00-04, passed 2-7-2000; Ord. 00-06, passed 4-3-2000; Ord. 06-02, passed 2-6-2006; Ord. 2010-11, passed - -2010; Ord. 11-5, passed 3-7-2011; Ord. 12-2012, passed 12-27-2012)

§ 52.18 WITHDRAWAL FROM JURISDICTION OF STATE UTILITY REGULATORY COMMISSION.

The Town Water Utility is withdrawn from the jurisdiction of the State Utility Regulatory Commission.

(Ord. 95-4, passed 5-8-1995)

BACKFLOW PREVENTION

§ 52.30 RESPONSIBILITY.

The Town Water Utility shall be responsible for the protection of the public potable water distribution system from contaminants or pollutants through the water service connection. If, in the judgment of the Town Water Utility an approved backflow prevention assembly is required as defined by 327 I.A.C. 8-10, Rule 10 (at the customer's water service connection; or, within the customer's private water system) for the safety of the water system, Town Water Utility shall give notice in writing by mail to the customer to install an approved backflow prevention assembly(s) at specific locations(s) on their premises. The consumer shall install an approved assembly(s) at the consumer's own expense; and failure, refusal or inability on the part of the customer to install, have

tested and maintain the assembly(s) shall constitute a grounds for discontinuing water service to the premises until the requirements have been satisfactorily met.

(Ord. 01-08, passed 9-10-2001)

§ 52.31 DEFINITIONS.

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

AIR-GAP. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing, fixture or other device and the flood level rim of the vessel. An approved **AIR-GAP** shall be at least double the diameter of the supply pipe, measured vertically, above the overflow rim of the vessel; and in no case less than one inch.

APPROVED. Accepted by the Town Water Utility as meeting an applicable specification stated or cited in this subchapter, or as suitable for the proposed use.

AUXILIARY WATER SUPPLY. Any water supply on or available to the premises other than the utility's approved public water supply. These **AUXILIARY WATERS** may include water from another utility's public potable water supply or any natural source(s) such as a well, spring, river, stream and the like, or used waters or industrial fluids. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the Water Utility does not have sanitary control.

BACKFLOW. The reversal of the normal flow of water caused by either backpressure or backsiphonage.

BACKFLOW PREVENTER. An approved assembly or means designed to prevent backflow.

BACKPRESSURE. The flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water supply system from any source or sources other than the intended source.

BACKSIPHONAGE. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply caused by the reduction of pressure in the potable water supply system.

CONTAMINATION. An impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

CROSS-CONNECTION. Any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other nonpotable water or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system.

CROSS-CONNECTION CONTROL BY CONTAINMENT. The installation of an approved backflow prevention assembly at the water service connection to any customer's premises where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection.

CROSS-CONNECTIONS CONTROLLED. A connection between a potable water system and a nonpotable water system with an air-gap or approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

DEGREE OF HAZARD. An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

DOUBLE CHECK VALVE ASSEMBLY. An assembly of two independently operating, approved check valves with resilient seated shut-off valves on each end of the check valves, plus properly located resilient seated test cocks for testing of each check valve. The entire assembly shall meet the design and performance specifications as determined by a laboratory and field evaluation program resulting in an approval by a recognized and Town Water Utility approved testing agency for backflow prevention assemblies. To be approved, these assemblies must be readily accessible for in-line testing and maintenance. Confined space installations will not be accepted.

HEALTH HAZARD. Any condition, device or practice in the water supply system and its operation, which could create, or in the judgment of the Town Water Utility, may create a danger to the health and well being of the water consumer.

INDUSTRIAL FLUIDS SYSTEM. Any system containing a fluid or solution, which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration as would constitute a health, system, pollutional or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of processed waters and used water originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalines, circulating cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, irrigation canals or systems and the like; oils, gases, glycerin, paraffin, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for firefighting purposes.

NONPOTABLE WATER. Water which is not safe for human consumption or which is of questionable potability.

PLUMBING HAZARD. A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by an approved air-gap or approved backflow prevention assembly.

POLLUTION. The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the waters for domestic use.

POLLUTION HAZARD. An actual or potential threat to the physical water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

POTABLE WATER. Any water which, according to recognized standards, is safe for human consumption.

REDUCED PRESSURE PRINCIPAL ASSEMBLIES. An assembly of two independently acting approved check valves together with a hydraulically operating, mechanically independent differential pressure relief valve located between the check valves and at the same time, below the first check valve, the unit shall include properly located resilient seated test cocks and resilient seated shut-off valves at each end of the assembly. The entire assembly shall meet the design and performance specifications as determined by a laboratory and a field evaluation program resulting in an approval by a recognized and Town Water Utility approved testing agency for backflow prevention assemblies. The assembly shall operate to maintain the pressure in the zone between the check valves at an acceptable level less than the pressure on the public water supply side of the assembly. At cessation of a normal flow, the pressure between the two check valves shall be less

than the pressure on the public water supply side of the assembly. In case of leakage of either of the check valves, the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved, these assemblies must be readily accessible for in-line testing and maintenance and be installed in a location where no part of the assembly will be submerged. Confined space installations will not be approved.

SUPERINTENDENT. The Superintendent of the Water Utility of the town who is vested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this subchapter.

SYSTEM HAZARD. An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted affect on the quality of the potable water in the system.

USED WATER. Any water supplied by a Water Utility from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the Water Utility.

WATER SERVICE CONNECTION. The terminal end of a service connection from the public potable water system; i.e., where the Water Utility loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. If a meter is installed at the end of the service connection, then the ***SERVICE CONNECTION*** shall mean the downstream end of the meter, provided the meter is installed outside of a building; i.e., in a meter pit or vault. If the meter is installed inside a building, then the Water Utility's jurisdiction terminates at the downstream end of the outside shut-off valve to the water service. There should be no unprotected takeoffs from the service line ahead of any meter or ahead of any backflow prevention assembly.

SERVICE CONNECTION shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(Ord. 01-08, passed 9-10-2001)

§ 52.32 WATER SYSTEM REQUIREMENTS.

The water system shall be considered as made up of two parts: the utility system and the customer system.

(A) The utility system shall consist of the source facilities and the distribution system; and shall include all air-gaps or approved backflow prevention assemblies properly installed and maintained, up to the point where the customer's system begins. The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system. The distribution system shall include the network of mains used for the delivery of water from the source to the customer's system.

(B) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system which are utilized in conveying utility-delivered domestic water to points of use.

(Ord. 01-08, passed 9-10-2001)

§ 52.33 COMPLIANCE.

No water service connection to any premises shall be installed or maintained by the Town Water Utility unless the water supply is protected as required by state rules and regulations and this subchapter. Service of water to any premises may be discontinued by the Town Water Utility if a backflow prevention assembly required by this subchapter is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until the conditions or defects are corrected.

(Ord. 01-08, passed 9-10-2001)

§ 52.34 INSPECTION.

The customer's system should be open for inspection at all reasonable times to authorized representatives of the Town Water Utility to determine whether there exists cross-connections or other structural or sanitary hazards, including violations of this subchapter or regulations which are adopted through this subchapter.

(Ord. 01-08, passed 9-10-2001)

§ 52.35 DISCONTINUATION OF SERVICE.

When a violative condition becomes known, the Superintendent may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with the state statutes and town ordinances relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Ord. 01-08, passed 9-10-2001)

§ 52.36 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLY.

An approved backflow prevention assembly shall also be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist.

(A) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the Town Water Utility, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard

(B) In the case of premises on which any industrial fluids or any other objectionable substance is handled in a fashion as to create an actual or

public water system shall be protected by an approved

potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.

(C) The public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line or lines where potential hazards could exist in the case of premises having:

(1) Internal cross-connection that cannot be permanently corrected or controlled; or

(2) Intricate plumbing and piping arrangements or where entry to all portions of the premises are not readily accessible for inspection purposes, making it impractical or impossible to ascertain whether or not dangerous cross-connections exist.

(Ord. 01-08, passed 9-10-2001)

§ 52.37 TYPE OF PROTECTIVE ASSEMBLY.

The type of protective assembly required shall depend upon the degree of hazard which exists as follows.

(A) In the case of any premises where there is an auxiliary water supply, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly.

(B) In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

(C) In the case of any premises where there is any material dangerous to health as to create an actual or potential hazard to the public water system, the

air-gap separation or an approved reduced pressure

principle backflow prevention assembly. Examples of premises where these condition will exist include, but are not limited to sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

(D) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection.

(E) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly on each service to the premises.

(F) In the case of any premises having a lawn irrigation system, the public water system shall be protected by an approved pressure vacuum breaker backflow prevention assembly or an approved reduced pressure principle backflow prevention assembly.
(Ord. 01-08, passed 9-10-2001)

§ 52.38 APPROVAL OF BACKFLOW PREVENTION ASSEMBLY.

Any backflow prevention assembly required herein shall be a model and size approved by the Town Water Utility. The term **APPROVED BACKFLOW PREVENTION ASSEMBLY** shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association (AWWA) entitled *AWWA C506-84 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices*. The assembly shall meet the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCCC&HR) of the University of

Southern California established by Specifications of Backflow Prevention Assemblies § 10 of the most current issue of the *Manual of Cross-Connection Control*. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with the AWWA standards and FCCC&HR specifications.
(Ord. 01-08, passed 9-10-2001)

§ 52.39 ADOPTION OF STANDARDS BY REFERENCE.

The AWWA and FCCC&HR standards and specifications specifically referenced in § 52.38 are hereby adopted and incorporated herein by reference.
(Ord. 01-08, passed 9-10-2001)

§ 52.40 DUTY TO TEST AND REPAIR.

It shall be the duty of the customer/user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made upon installation and at least once per year. In those instances where the Town Water Utility Superintendent deems the hazard to be great enough, the Superintendent may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by a certified tester approved by the state and the Town Water Utility. It shall be the duty of the Town Water Utility to see that these tests are made in a timely manner. If a customer/user does not have its backflow prevention assembly tested within 30 days of notification, the Town Water Utility may discontinue water service to the premises to maintain the safety of the public water system. These assemblies shall be repaired, overhauled or replaced at the expense of the customer/user whenever the assemblies are found to be defective. Records of the tests, repairs and overhaul shall be kept and made available to the Town Water Utility.
(Ord. 01-08, passed 9-10-2001)

§ 52.41 EXEMPTIONS.

All presently installed backflow prevention assemblies which do not meet the requirements of this section that were approved devices for the purposes described herein at the time of installation and which have been properly maintained, shall be excluded from the requirement of these rules so long as the Town Water Utility is assured that they will satisfactorily protect the utility system. However, whenever the existing device is moved from the present location or requires more than the minimum maintenance or when the Town Water Utility finds that the assembly or its maintenance constitutes a hazard to health, the unit shall be replaced, at the consumer's expense, by an approved backflow prevention assembly meeting the requirement of this section.

(Ord. 01-08, passed 9-10-2001)

(B) *Backflow prevention.* Whoever violates any provision of §§ 52.30 through 52.42 for which no other penalty is otherwise specifically provided shall be fined not more than \$1,000. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 01-08, passed 9-10-2001)

§ 52.42 CERTIFICATION OF TESTERS.

Certified testers shall be listed with the Town Water Utility and shall provide proof of six contact hours annually of approved continuing education to the Town Water Utility. In addition, certified testers will provide proof that test gauges used in testing backflow prevention assemblies have been calibrated and certified annually.

(Ord. 01-08, passed 9-10-2001)

§ 52.99 PENALTY.

(A) *Water Utility.* The commission of any act prohibited by §§ 52.01 through 52.17, or the failure to make any payment due under §§ 52.01 through 52.17, or the doing of any act prohibited by the lawful orders or regulations of the Board or Superintendent or the failure to perform a lawful order or regulation of the Board or Superintendent shall be a punishable violation of this chapter for which the penalty shall be a fine of not less than \$10 nor more than \$100 to which may be added, in the case of willful act or omission, imprisonment not exceeding six months.

(Prior Code, § 52.19)

CHAPTER 53: SEWERS

Section

Connections to Public Sewers and Drains

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CONNECTIONS TO PUBLIC SEWERS AND DRAINS

§ 53.01 DEFINITIONS.

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

APPROVAL BY THE BOARD OF PUBLIC WORKS. Approval by the Board of Public Works and Safety of the City of Lafayette to be in conformance to the Municipal Wastewater Service Agreement between the town and the City of Lafayette, dated 12-7-1976, and all addendas and amendments thereto.

BOARD or TOWN. The Town of Dayton, Indiana, the Town Council or the Utility Service Board of the town.

B.O.D. (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 milligrams per liter.

BUILDING OR HOUSE DRAIN. The lowest horizontal piping of the sanitary drainage system or the building drainage system inside the walls of any building, which receives the discharge from soil, waste stacks and other drainage pipes and branches and conveys the same from inside the walls to a point four feet outside the building walls where it connects with its respective building or house lateral sewer.

BUILDING OR HOUSE LATERAL SEWER.

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

COMPATIBLE POLLUTANTS. Wastewater having or containing:

(1) Measurable biochemical oxygen demand (B.O.D.);

(2) Suspended solids;

(3) pH;

(4) Fecal coliform bacteria; or

(5) Additional pollutants identified or defined in the town's national pollutant discharge elimination system permit or by the state or Board.

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

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

INCOMPATIBLE POLLUTANTS. Any pollutant which are not compatible pollutants.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

INSPECTOR. The person or persons, firm, association or corporation 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.

MAJOR CONTRIBUTOR. A contributor that:

(1) Has a discharge flow of more than 50,000 gallons per average workday;

(2) Has in its waste a toxic pollutant in toxic amounts as defined in § 307 of the Federal Water Pollution Control Act, Pub. L. No. 92-500, being 33 U.S.C. § 1317, and any amendments thereto;

(3) Has significant impact, either singly or in combination with other contributors, on the sewage system, wastewater treatment plant or the quality of the effluent from the wastewater treatment plant; or

(4) Is so determined by reason of the contract between the town and the City of Lafayette.

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

NUISANCE. Any substance which is injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property.

PERSON. Any individual, firm, company, association, society, corporation, group, school, partnership, trustee, limited liability company or municipality.

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 a 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 groundwater are not intentionally admitted.

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

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

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

SEWER. A pipe or conduit for carrying sewage.

SHALL. Is mandatory; **MAY** is permissive.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituted or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN. Sometimes termed **STORM SEWER.** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of the municipal sewage works of the town or the person, firm, association or corporation with whom the town has any contract for maintenance or management of the sewage works, 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.

USER. Any person that discharges, causes or permits the discharge of wastewater into the sewage system.

WASTE. Sanitary sewage and any other waste substance, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or

animal origin, or from any producing, processing, manufacturing or industrial operation of whatever nature, including the waste placed within containers of whatever nature prior to, and for the purpose of disposal.

WASTEWATER. The water carried waste from residences, business buildings, institution and industrial establishments, singular or in any combination, together with the ground, surface and stormwater as may be present.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Prior Code, § 50.01) (Ord. 78-6, passed 5-15-1978)

§ 53.02 CONNECTION TO SEWER.

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

(B) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any sewage 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 facility 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 on any street, alley or right-of-way in which there is now or hereafter is located a public

sanitary or combined sewer of the town, is hereby required at his or her expense to install suitable toilet

facilities therein, and to connect the 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 the public sewer is within 200 feet of the property line.

(Prior Code, § 50.02) (Ord. 78-6, passed 5-15-1978)
Penalty, see 53.99

§ 53.03 PRIVATE SEWAGE DISPOSAL SYSTEM.

(A) Where a public sanitary sewer is not available under the provisions of § 53.02, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for the permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$50 shall be paid to the town at the time the application is filed.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health and the Board of Health of the county. No permit shall be

issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than the requirements of the then current Unified Zoning Ordinance of the county and the town. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At a time as a public sewer becomes available to a property served by a private sewage disposal system as provided in division (D) above, 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 and filled with suitable material as provided in division (H) below of this section.

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

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

(H) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Prior Code, § 50.03) (Ord. 78-6, passed 5-15-1978)

§ 53.04 PERMITS AND CONSTRUCTION.

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

(B) (1) There shall be two classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$25 for a residential or commercial building sewer permit and \$100 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed. Commercial and industrial users shall supply the town with information about expected wastewater constituents and characteristics.

(C) A major contributor shall obtain a major contributor permit for a fee of \$150 and shall pay a like fee for each renewal at the time of making a request therefore.

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

(E) A separate and independent building or house lateral 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 or house lateral sewer.

(F) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this subchapter.

(G) The building sewer shall be cast iron soil pipe, ASTM A-74, latest revision; vitrified clay sewer pipe ASTM C-13, latest revision; asbestos-cement sewer pipe ASTM C-428, latest revision, or approved equal. Plastic pipe shall have the National Sanitation Foundation (NSF) label on the pipe barrel and the pipe

shall comply with Commercial Standards CS-272-65, or CS-270-65, or ASTM D-3034 and ASTM D-1784, or other pipe as the town may from time to time approve.

(H) The size and slope of the building sewer shall be subject to the approval of the Superintendent. In general, the building sewer shall be the same size as the service branch but in no event less than four inches in diameter. The slope of the four-inch building sewer shall not be less than 1.2% and the six-inch sewer not less than 0.6% slope.

(I) No building sewer shall be laid parallel to within three feet of any bearing wall which might thereby be weakened. The depth shall sufficient to provide a minimum of 18 inches of cover over the pipe. The building sewer shall be laid at uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

(J) Whenever possible, the building or house lateral sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building or house lateral sewer.

(K) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources or surface runoff or groundwater to a building or house lateral sewer or building or house drain which in turn is connected directly or indirectly to a public sanitary sewer.

(L) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the ASTM and W.P.C.F. *Manual of Practice No. 9*. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(M) The applicant for the building sewer permit shall notify the Inspector when the building or house lateral sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his or her representative.

(N) All excavations for building or house lateral sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(O) No person shall discharge any wastewater which will cause the town to violate any conditions of its NPDES permit.

(Prior Code, § 50.06) (Ord. 78-6, passed 5-15-1978; Ord. 79-1, passed 1-8-1979) Penalty, see § 53.99

§ 53.05 SURCHARGE FOR STRENGTH OF WASTE.

The town shall have the right to impose a surcharge for waste discharged into the sewerage system whose strength or character is so that the introduction of the waste into the sewerage system may cause additional costs to the system.

(Ord. 79-1, passed 1-8-1979)

§ 53.06 PROHIBITION ON DISCHARGE.

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

(B) Stormwater and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent to a storm sewer, combined sewer or natural outlet.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

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

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; and

(4) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

(D) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to the factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of

the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F (65°C);

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C);

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to a degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for the materials;

(6) Any waters or wastes containing phenols or other taste or odor-producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet the requirements of the City of Lafayette, state, federal or other public agencies of jurisdiction for the discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

(8) Any waters or wastes having a pH in excess of 9.0;

(9) Materials which exert or cause:

(a) Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(c) Unusual B.O.D., chemical oxygen demand or chlorine requirements in quantities as to constitute a significant load on the sewage treatment works; and

(d) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(E) (1) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D) above of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (J) below of this section.

(2) If the Superintendent permits the pretreatment or equalization of waste flows, and same has the approval of the Board of Public Works, the design and installation of the plans and equipment shall be subject to the review and approval of the Superintendent and the approval of the Board of Public Works and subject to the requirements of all applicable codes, ordinances and laws.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the Inspector and with the approval of the Board of Public Works they are necessary for the proper handling of liquid wastes, containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that the 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 the approval of the Board of Public Works and shall be located as to be readily and easily accessible for cleaning and inspection.

(G) Where preliminary treatment or flow-equalizing 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 and the approval of the Board of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The 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 wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, or as established by state or federally regulatory agencies and shall be determined at the control manhole provided, or upon suitable samples taken at the 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. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(J) No statement contained in this section shall be construed as preventing any special agreement or arrangement with the approval of Board of Public Works 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.

(K) No person shall discharge any substance directly into a manhole or other opening in the sewage system other than through the approved building or house lateral sewer, except in accordance with the terms of this subchapter or by expressed permission of the Board.

(Prior Code, § 50.09) (Ord. 78-6, passed 5-15-1978) Penalty, see § 53.99

§ 53.07 PROHIBITION OF DISCHARGE TO NATURAL OUTLETS.

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

(Ord. 79-1, passed 1-8-1979) Penalty, see § 53.99

§ 53.08 RIGHT TO PROHIBIT NEW CONNECTIONS.

The town shall have the right to prohibit new connections when the excess capacity of the sewerage system is deemed insufficient by the Board to accommodate the expected flow, B.O.D. and/or suspended solids loading from the prospective sewer user.

(Ord. 79-1, passed 1-8-1979)

§ 53.09 RIGHT TO REJECT WASTE.

The town shall have the right to reject waste and prohibit the introduction of rejected waste into the sewerage system, or the town may require pretreatment of the waste when the strength or character of the waste is so that it could cause damage to or interfere with the operation of the sewerage system.

(Ord. 79-1, passed 1-8-1979)

§ 53.10 TAMPERING.

No 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.

(Prior Code, § 50.10) (Ord. 78-6, passed 5-15-1978) Penalty, see § 53.99

§ 53.11 INSPECTION AND MONITORING.

(A) The Superintendent, Inspector and other duly authorized employees of the town or persons designated by the Board of Public Works and Safety of the City of Lafayette bearing proper credentials and identification shall be permitted upon notification to the user or responsible person in charge to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this subchapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Superintendent or duly authorized employees of the town or persons authorized thereunder shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the town's employees and the town shall indemnify the user against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 53.06.

(C) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Prior Code, § 50.11) (Ord. 78-6, passed 5-15-1978)

§ 53.12 MAJOR CONTRIBUTOR.

(A) All users shall provide the town with sufficient information to determine if they are major contributors. All users determined to be major contributors shall be required to obtain a permit that describes the wastewater constituents and characteristics allowed and sets forth the applicable surveillance schedule and the monitoring requirements they shall be subject to, in order to discharge to the sewerage system. A permit shall be valid for four years unless processing changes are made that, as determined by the town, alter the wastewater constituents and characteristics. In the event of a change, a new application shall be filed accordingly. A permit will be renewed without reapplication at the end of four years at the request of the user. No permit may be revoked, terminated or allowed to expire or lapse or not renewed at the request of the user by the town without 15-days' written notice. All surveillance and monitoring shall be at the cost of the user.

(B) Major contributor permits may not be sold, transferred, assigned and the like without the express written approval of the town.

(C) Nothing in a major contributor permit shall be construed as allowing an exception to the prohibitions and limitations on wastewater admissibility as set forth herein. Major contributors are subject to all applicable fees, rates and charges set forth in this subchapter.

(D) Major contributors shall make application for the proposed discharge on a form provided by the town. The permit application shall be supplemented by any plans, specifications, studies or other information considered pertinent by the town.

(Prior Code, § 50.12) (Ord. 78-6, passed 5-15-1978)

§ 53.13 PERSONS OUTSIDE OF TOWN.

No person shall directly or indirectly make any connections with or openings into the sewerage system or appurtenance owned or operated by the town, for

the purpose of serving any areas outside the corporate boundaries of the town without first satisfying the following two requirements:

(A) The connection and service approved by special agreement or contract between any person and the town, the special agreement being ratified and confirmed by ordinance of the Town Council, consistent with all terms and purposes of this subchapter citing wastewater admissibility, major contributor permits and applicable fees, rates and charges; and

(B) All persons who are fee simple owners of all of the real estate to be serviced have executed a waiver of right to object to annexation, which waiver shall be acknowledged and recorded and shall run with the land and be binding upon the owners' successors in interest, which waiver shall read substantially as follows.

**STATE OF INDIANA
TIPPECANOE COUNTY**

**AGREEMENT FOR SEWERAGE SERVICE
AND WAIVER OF RIGHT TO OBJECT TO
ANNEXATION**

To the Town of Dayton:

In consideration of the Town of Dayton, Indiana, permitting the undersigned to connect at their request to the town sewerage system and for other good and valuable consideration, the undersigned being all of the fee simple owners of all the real estate to be serviced, hereby waive all rights to object to annexation or resist any proceeding for annexation commenced either by the town or others and do hereby consent to any annexation of such by the town of all or any part of the real estate within the serviced area at any time hereafter, the real estate being legally described as follows:

(here insert legal description)

This waiver shall run with the land and shall be binding upon the heirs, administrators, devisees, assigns or successors in interest.

Dated this _____ day of _____, 20__.
(Prior Code, § 50.13) (Ord. 78-6, passed 5-15-1978)
Penalty, see § 53.99

§ 53.14 VIOLATIONS.

(A) (1) As soon as known, users shall notify the town upon accidentally discharging wastewater in violation of subchapter to enable countermeasures to be taken by the town to minimize damage to the sewerage system, wastewater treatment plant, treatment processes and the receiving stream.

(2) This notification shall be followed within seven days of the date of occurrence by a detailed written report describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.

(3) The notification will not relieve users of liability for any expense, loss or damage to the sewerage system, wastewater treatment plant or treatment process or any fines imposed by the town.

(B) When the town finds that any person has violated any provisions of this subchapter or the provisions of a major contributor permit except § 53.10, the town may require the user to submit for approval a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

(C) When the town finds that any person has violated any provision of this subchapter, or the provisions of a major contributor permit, the town may issue an order to cease and desist and direct that the user not complying with the provisions:

(1) Comply forthwith;

(2) Comply in accordance with a time schedule set forth by the town; or

(3) Take appropriate remedial or preventive action in the event of a threatened violation.

(D) When the town finds that a discharge of wastewater is in violation of the admissibility requirements of this subchapter or the provisions of a major contributor permit, or otherwise causes or threatens to cause a condition of pollution or nuisance, the town may petition the court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of a discharge.

(E) The town may revoke after 15-days' notice any major contributor permit or terminate or cause to be terminated wastewater service if a violation of any provision of this subchapter or the major contributor permit is found to exist or if a discharge causes or threatens to cause a condition of pollution or nuisance as defined in this subchapter or causes the town to violate the terms of any governmental permit issued to the town or any contract entered into by the town and any other municipality. This provision is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.

(F) Any person who knowingly makes any false statements, representation, record, report, plan or other document filed with the town or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations shall be considered in violation of this subchapter.

(G) Any person violating any of the provisions of this subchapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of the violation.

(Prior Code, § 50.14) (Ord. 78-6, passed 5-15-1978)
Penalty, see § 53.99

SEWER CHARGES**§ 53.25 DEFINITIONS.**

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

BIOCHEMICAL OXYGEN DEMAND (OR B.O.D.) OF SEWAGE, SEWAGE EFFLUENT, POLLUTED WATERS OR INDUSTRIAL WASTES.

The quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at 20°C. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

CHEMICAL OXYGEN DEMAND (OR COD) OF SEWAGE, SEWAGE EFFLUENT, POLLUTED WATERS OR INDUSTRIAL WASTES.

A measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in *Standard Methods*.

EQUIPMENT. All movable, non-fixed items necessary to the wastewater treatment process.

INDUSTRIAL WASTES. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or escaping from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by any person as defined in this section, and shall further mean any waste from an industrial user as defined in this section.

OPERATION AND MAINTENANCE EXPENSES. All annual expenses related directly to operating and maintaining the sewage works as identified in *Uniform System of Accounts for Wastewater Utilities* or as prescribed by the State

Board of Accounts under general headings, Plant Operation and Maintenance, Sewer Operation and Maintenance, Customer Accounts, Administrative and General, Insurance and Taxes.

PERSON. Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

REAL PROPERTY. All nonmovable fixed in place items such as structures and buildings, housing equipment or otherwise used in the wastewater treatment plant process.

REPLACEMENT. Expenditures for procuring and installing equipment, accessories or appurtenances which are necessary during the service life of the sewage works to maintain its designed capacity and performance.

SANITARY SEWAGE. Sewage discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions and free from stormwater, surface water and industrial wastes.

SERVICE LIFE. The period of time during which a component of a wastewater sewage works will be capable of performing a function and the maximum life components constructed under EPA Project No. C180621-03 are hereby set as follows.

Real property	50 years commencing from 9-1-1979
Process equipment	30 years commencing from 9-1-1979
Auxiliary equipment	15 years commencing from 9-1-1979

SEWAGE. The water-carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with the ground surface and stormwaters as may be present.

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

SEWER CHARGES. Comprised of the user charge and a separate amount for debt service and user charges shall mean a system of charges levied on users of a treatment works for the cost of operation and maintenance (including replacement) of the works. In addition, each user shall pay an amount sufficient to pay principal and interest (debt service) on any revenue bonds, payable from the revenues of the sewage works, proportional to the equipment and real property necessary for wastewater treatment for each user. The method of computing the initial user charge and debt service charge is contained in a report prepared by McCullough & Associates, Public Accountants, Indianapolis, Indiana, and is incorporated as a part hereof. Prior to May 1 of each year, the Clerk-Treasurer shall prepare and present to the Town Council an accounting of operation and maintenance expenses, replacement costs and debt service for the immediately preceding calendar year, and the Town Council shall, upon receiving the accounting, effect any change in the monthly sewer charges necessary to produce revenue proportionate to cost for each user.

SEWERAGE SYSTEM. The network of sewers and appurtenances used for collecting, transporting and pumping sewage to the wastewater treatment plant.

SHALL. Is mandatory; **MAY** is permissible.

STANDARD METHODS. The examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and as set forth in the Congressional Record 40 C.F.R. part 136.

STRENGTH-OF-WASTES SURCHARGE. The extra charges for sewerage service assessed users whose sewage is of a nature that it imposes upon the sewage works a burden greater than that covered by the basic user charge.

SURCHARGE. A charge for sewerage services in addition to the basic service charge.

SUSPENDED SOLIDS. Solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory alteration. Their concentration shall be expressed in milligrams per liter. Quantitative determinations shall be made in accordance with procedures set forth in *Standard Methods*.

TOWN. The Town of Dayton, Indiana, or any duly authorized officials acting in its behalf.

USER CLASSES. Each recipient of municipal wastewater treatment services shall be either in the industrial class or the nonindustrial class (including domestic, commercial, institutional and governmental).

(1) The **INDUSTRIAL CLASS** shall include any user determined by the Town Council to be discharging waste resulting from any industrial or manufacturing process; from the development, recovery or processing of any natural resource or from any other process of operation which produces waste of a strength greater than sanitary waste.

(2) The **NONINDUSTRIAL CLASS** shall include all domestic and governmental users and those industrial, commercial and institutional users whose wastes are segregated domestic wastes or wastes from sanitary conveniences where regular domestic wastes are those wastes generated by normal domestic activity as determined by the Town Council.

WASTEWATER TREATMENT PLANT. The wastewater treatment facilities of the Lafayette Municipal Sewage Works.
(Prior Code, § 51.01) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979)

§ 53.26 SEWER CHARGES BASED ON WATER USAGE.

The Town Council may require a user to install and maintain at his or her own expense an approved device to measure directly the volume of wastes discharged to the sewage system if these volumes cannot otherwise be determined. The town shall inspect and approve the installations and no service, once installed, shall be removed without the town's approval.

(Prior Code, § 51.02) (Ord. 78-7, passed 5-15-1978)

§ 53.27 SEWER CHARGES.

(A) *User classes.* Each recipient of municipal wastewater treatment services shall be either a residential user class or nonresidential user class. **RESIDENTIAL USERS** shall mean any recipient of municipal wastewater treatment services whose lot, parcel or real estate or building is used for domestic dwelling purposes only. **NONRESIDENTIAL USERS** shall mean all other users of municipal wastewater treatment services.

(B) *Sewer charges and rates.* Sewer charges are as follows.

(1) *Residential.*

(a) Zero to 3,000 gallons, \$25.76 per month.

(b) Each additional 1,000 gallons or any part thereof shall be charged at the rate of \$8.32 per 1,000 gallons.

(2) *Nonresidential user.*

(a) Zero to 3,000 gallons, \$27.55 per month.

(b) Each additional 1,000 gallons or any part thereof shall be charged at the rate of \$8.92 per 1,000 gallons.

(3) *Nonmetered user.*

(a) The minimal monthly sewer charge for any nonmetered residential user shall be \$59.06. The minimum monthly sewer charge for any nonmetered nonresidential user will be determined by the Town Council.

(b) The user charges and debt service charges set forth in this section shall become effective upon the connection of the user to the sewerage system.

(C) *Computation of surcharge.* For those users whose wastewater has a greater strength than normal domestic usage, a surcharge in addition to the normal user charge will be collected. The surcharge for operation and maintenance including replacement is:

(1) \$0.11 per pound B.O.D. in excess of 250 mg/l;

(2) \$0.11 per pound suspended solids in excess of 250 mg/l; and

(3) \$0.55 per pound ammonia in excess of 40 mg/l.

(Prior Code, §§ 51.03, 51.04) (Ord. 78-7, passed 5-15-1978; Ord. 82-1, passed 1-4-1982; Ord. 95-5, passed 7-24-1995; Ord. 01-13, passed 12-3-2001; Ord. 05-11, passed 8-1-2005; Ord. 06-10, passed 12-4-2006; Ord. 11-2012, passed 12-27-2012)

§ 53.28 INTERIM SEWER CHARGES.

(A) *Collection.* Interim sewer charges shall be collected from the owners of each and every lot, parcel of real estate or building that is or could be connected to the town's sewerage system which sewer charges shall be payable monthly until the construction of the sewerage system is completed or the user is connected to the sewerage system.

(B) *Interim sewer charges.* Each user shall pay a monthly sewer charge based on an equivalent sewer charge factor of one. The interim monthly equivalent

sewer charge for a single-family residential user is hereby fixed and established at \$0.82 for the user charge and \$3.75 for the debt service charge or a total monthly interim sewer charge of \$4.57. The interim monthly charge shall be based upon type of occupancy, as set forth in § 53.27(B). (Prior Code, §§ 51.05, 51.06) (Ord. 78-7, passed 5-15-1978)

§ 53.29 STRENGTH OF WASTE SURCHARGE.

(A) *Liability of surcharge.* Each industrial or nonindustrial user who discharges wastes into the sewerage system shall be subject to a surcharge, in addition to the regular sewer charges, based on both the biochemical oxygen demand (or on the chemical oxygen demand where B.O.D. cannot be determined) and the suspended solids content of the wastes, if these wastes have a concentration greater than the following:

(1) A biochemical oxygen demand of 250 milligrams per liter; or where B.O.D. cannot be determined, then, in lieu of B.O.D., a chemical oxygen demand of 500 milligrams per liter; and

(2) A suspended solids content of 250 milligrams per liter.

(B) *Computation of surcharge.* The surcharge shall be determined as follows.

(1) The excess pounds of B.O.D. (or COD) and of suspended solids will each be computed by first multiplying the customer's billing sewage volume measured in units of 1,000 gallons for the current billing period by the factor 0.00834 and then multiplying this product by the difference between:

(a) The concentrations measured in milligrams per liter of the B.O.D. (or COD) and of the suspended solids respectively in the customer's sewage; and

(b) The allowed concentrations set out in § 53.05.

(2) The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge set out in division (C) below.

(C) *Rates of surcharge.* The rate of surcharge for each of the aforementioned constituents shall be the same as that charged by the Lafayette, Indiana Municipal Sewage Works.

(D) *Revision of rates of surcharge.* The rates of surcharge shall be revised to remain the same as those charged by the Lafayette Municipal Sewage Works. The revision shall take effect simultaneously with the revised rates of surcharge of the Lafayette Municipal Sewage Works without amendment to this subchapter. (Prior Code, § 51.07) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979)

§ 53.30 BILLING OF SERVICE CHARGES.

(A) *Billing period.* Sewer charges for sewerage service shall be prepared and billed by the town and shall be due and payable as determined by the Town Council.

(B) *Liability for payment.* The sewer charges for sewerage service shall be billed to the property owner unless, by contract with the town, another person assumes the responsibility. If a tenant is billed, the owner shall in no way be relieved of liability in the event payment is not made by the tenant as herein required. The owner shall have the right to examine the town's collection records to ascertain whether the charges have been paid.

(C) *First billings.* The sewer charges and surcharges fixed in this subchapter shall be extended to and cover any additional premises hereafter served without the need for any hearing or notice. If the first billing to a new customer covers a period other than a full billing month, then the sewer charges for the billing shall be made in keeping with standard practice as established by the Town Council. Subsequent sewerage service billings shall be for periods

coinciding with the billing periods established by the Town Council. If the sewer charges and/or surcharges are changed, the first billing after the change may also be for a period other than a full billing month.

(Prior Code, § 51.08) (Ord. 78-7, passed 5-15-1978)

§ 53.31 DELINQUENT ACCOUNTS; HOW DELINQUENCIES ARISE.

Charges for sewerage service levied pursuant to this subchapter shall be due and payable on or before the due dates shown on the bills. Any service charge not paid by the due date (approximately 15 days after the bill is rendered) shall be considered delinquent. The delinquent charge together with any applied penalty shall be collectible as set forth in § 53.99.

(Prior Code, § 51.09) (Ord. 78-7, passed 5-15-1978)
Penalty, see § 53.99

§ 53.32 CONNECTION FEE.

(A) *Connection fee.* Any user connecting to the sanitary sewer more than 90 days subsequent to completion of construction of the sewage works shall pay a connection or tap-on fee in the amount of \$300 permit fee of \$25 per residential unit or \$150 for each commercial unit.

(B) *Implementation of industrial cost recovery.* In the event that any industrial user begins to discharge the equivalent of 25,000 gallons per day of sanitary wastes or begins to discharge waste containing any pollutants which:

(1) Interfere with treatment works processes;

(2) Are incompatible; or

(3) Contaminate or reduce the utility of the sludge of the treatment works, then the town shall develop and implement an industrial cost recovery

ordinance to be effective over the remaining cost recovery period, hereby set at 30 years commencing one year after the final project inspection and approval by E.P.A.

(Prior Code, § 51.10) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979; Ord. 96-12, passed 12-9-1996)

§ 53.33 BY-LAWS, RULES AND REGULATIONS.

The Town Council shall, in accordance with the statutes of the state, make and enforce whatever by-laws, rules and regulations it may deem necessary for the safe, economical and efficient management of the town's sewage works, for the regulation, collection and refunding of the user charges for sewerage service and, in general, for the implementation of the provisions of this subchapter. (Prior Code, § 51.11) (Ord. 78-7, passed 5-15-1978)

§ 53.34 COMPLIANCE WITH WASTEWATER AND SANITARY SEWER STANDARDS.

(A) The town shall enforce the discharge standards established pursuant to City of Lafayette Municipal Code Title 6 which are incorporated by reference herein.

(B) The City of Lafayette shall be permitted upon providing sufficient notice to the town to inspect the sanitary sewer facilities within the town to ensure compliance.

(C) Should the City of Lafayette find the lack of compliance with the standards, the town shall take those steps necessary and reasonable to correct the deficiencies.

(D) Should the town fail to act in accordance with division (C) above, the City of Lafayette may enforce compliance pursuant to City of Lafayette Municipal Code Title 6.
(Ord. 05-14, passed 12-5-2005)

§ 53.35 CREDIT ON SEWAGE FOR NEW HOMES.

(A) For the first summer of the occupancy of a newly constructed home, the occupants may petition the Town Council for sewage credit for the months of June, July and August as a result of increased water costs for the watering of lawns only.

(B) No other sewage credits shall be granted. (Ord. 05-13, passed 11-7-2005)

§ 53.36 LIABILITY FOR COSTS; INDEMNIFICATION OF TOWN.

All costs and expenses incident to the installation and connection of the building or house lateral sewer shall be the responsibility of the person who owns the premises. The person shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building or house lateral sewer.

(Ord. 05-10, passed 8-1-2005)

§ 53.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Sewers.* The commission of any act prohibited by §§ 53.01 through 53.14, by a major contributor permit, or by lawful order of the Superintendent or Inspector, or by lawful order or regulation of the Board, or the failure to perform without lawful order of the Superintendent or the Inspector, or without lawful order or regulation of the Board shall be a punishable violation of §§ 53.01 through 53.14, for which, unless there is another specific penalty provided, the penalty shall be a fine of not less than \$10 nor more than \$100 to which may be added, in the case of wilful act or omission, imprisonment not exceeding six months. In the case of

discharge into the sewage system in violation of §§ 53.01 through 53.14 or major contributors permit, each day of violation constitutes a separate offense. (Prior Code, § 50.14)

(C) *Sewer charges; delinquent accounts.*

(1) *Collection through the tax duplicate.* As provided by the statutes of the state, delinquent sewerage service charges may be made a lien against the property served through certification to the Auditor and to the Recorder of the county. In this case, the delinquent service charges, together with the mandatory penalty of 10%, shall be placed on the tax duplicate and be collected in the same manner as regular taxes and assessments are collected.

(2) *Collection through court actions.* In addition to the foregoing remedies, the town shall have the right to bring a civil action to recover any delinquent charges together with a penalty of 10% and reasonable attorney's fee. It shall also have the right, as provided by the statutes of the state, to foreclose any lien established under the provisions of § 53.30(B), with recovery of the charge, a penalty of 10% and reasonable attorney's fee. (Ord. 78-6, passed 5-15-1978; Ord. 78-7, passed 5-15-1978)

CHAPTER 54: STORMWATER MANAGEMENT

Section

- 54.01 Purpose; intent
- 54.02 Definitions
- 54.03 Creation of Stormwater Utility
- 54.04 Governing board; area served; powers and duties
- 54.05 Creation of Non-reverting Stormwater Utility Cumulative Fund
- 54.06 Stormwater utility user fee
- 54.07 Stormwater utility user fee structure
- 54.08 Schedule of rates
- 54.09 Billing and payment; penalties

AUTHORIZED OFFICIAL. Any employee or agent of the town authorized in writing by the Board to administer or enforce the provisions of this chapter.

BOARD. The Town Council acting as the Board of Public Works and Safety pursuant to I.C. 36-1-2-24.

CLASSIFICATION PROCEDURE. The method that the town uses to determine classification of non-residential parcels may take the following forms or any combination thereof:

§ 54.01 PURPOSE; INTENT.

The purpose and intent of this chapter is to promote the health, safety and general welfare of the inhabitants of the Town of Dayton, Indiana by establishing a stormwater utility sufficient to plan, control, operate and maintain the town's stormwater management system.

(Ord. 05-02, passed 3-7-2005; Ord. 2011-2, passed 2-7-2011)

§ 54.02 DEFINITIONS.

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

APPROVED PLANS. Plans approved by the authorized official according to a permit and plan review which will govern all improvements made within the town that require a stormwater system or changes or alterations to the existing stormwater system.

(1) Computation of the parcel size, pavement area, roof area, or other area using on-site measurements of the apparent outside boundaries of the parcel or impervious area in or on such developed parcel, respectively, made by the town or on its behalf.

(2) Computation of the parcel size, pavement area, roof area, or other area using the dimensions of the parcel or impervious area in or on the parcels which are set forth and contained in the records of the office of the County Assessor or Township Assessor.

(3) Computation of the parcel size, pavement area, roof area, or other area using aerial photography or photogrammetry, or using the information data from on-site measurements of like or similar property or features or as contained in the records of the town or county.

(4) Computation of parcel size, pavement area, roof area, or other area using data provided by the owner, tenant or developer. The authorized

official may require additional information as necessary to make the determination.

CODE. The Town of Dayton, Indiana Municipal Code.

COMPOSITE COVERAGE VALUE. The result of the calculations as determined by the town that multiplies pavement area times 0.90, roof area time 1.00, and other areas times 0.20 and then divides the sum of three by the total area of a particular parcel. Pavement areas include aggregate, asphalt, brick, concrete, and the like that may be used for pedestrian or vehicular traffic. Roof area include any above ground structure. Other areas include lawns, open water, woods, and the like.

COVERAGE FACTOR. That part of the non-residential rate equation representing the relative amount of impervious area on a particular parcel. For purposes of this chapter, each non-residential parcel shall be assigned one of the following **COVERAGE FACTOR** categories as determined by the town in accordance with the classification procedure:

(1) **HIGH.** The composite coverage value is more than 0.5. **HIGH COVERAGE FACTOR** is hereby established as 3.0.

(2) **LOW.** The composite coverage value is equal to or less than 0.5. **LOW COVERAGE FACTOR** is hereby established as 2.0.

NON-DEVELOPED PROPERTY. A lot or parcel of land which is vacant or is used for agricultural purposes. This does not include parking lots, athletic fields, front, back or side lawns, or lots which are used as accessory lots to residential property or non-residential property.

NON-RESIDENTIAL PROPERTY. All properties not encompassed within the definition of **RESIDENTIAL PROPERTY**, including but not limited to: commercial, industrial, retail, multi-family residential (three or more dwelling units), governmental, institutional, schools, and churches.

RESIDENTIAL PROPERTY. Any lot or parcel existing in the town on which as ingle building or mobile home is situation, containing up to and including two dwelling units. Two dwelling units or duplexes will be charged per unit.

SIZE FACTOR. The part of the non-residential rate equation representing the relative amount of surface area on a particular parcel. All surface area calculations shall be rounded to the nearest one-tenth of one acre. For purposes of this chapter, each non-residential parcel shall be assigned one of the following **SIZE FACTOR** categories as determined by the town:

(1) **SMALL.** A particular parcel is made up of equal to less than 1.0 acres. **SMALL SIZE FACTOR** is hereby established as 1.0.

(2) **MEDIUM.** A particular parcel is made up of more than 1.0 acres but less than 5.0 acres. **MEDIUM SIZE FACTOR** is hereby established as 3.0.

(3) **LARGE.** A particular parcel is made of more than 5.0 acres. **LARGE SIZE FACTOR** is hereby established as 5.5.

STORMWATER. The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet and hail.

STORMWATER SYSTEM. All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the town, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefore, any part of the system of drains and watercourses under the jurisdiction of the Tippecanoe County Drainage Board or waters of the State of Indiana.

STORMWATER UTILITY. A division of the sewage works as defined in I.C. 36-9-1-8(8) and (12).

STORM UTILITY USER. The owner of a lot or parcel within the town.

SURFACE WATER. Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

TOWN. The incorporated Town of Dayton, Tippecanoe County, Indiana.
(Ord. 2011-2, passed 2-7-2011)

§ 54.03 CREATION OF STORMWATER UTILITY.

A Stormwater Utility is hereby created as part of the Dayton Service Utility Board. The Utility shall be responsible for all storm sewers and the collection and disposal of storm drainage. The Utility shall also be responsible for the implementation of all federal and state mandates regarding stormwater drainage and erosion control.
(Ord. 2011-2, passed 2-7-2011)

§ 54.04 GOVERNING BOARD; AREA SERVED; POWERS AND DUTIES.

(A) *Governing board.* The Utility shall be governed by the Town Council acting as the Board of Public Works and Safety. This Utility shall have the same governing board as that which governs the Dayton Service Utility Board established in Chapter 52 of the Dayton Town Code.

(B) *Area served by Stormwater Utility.* The corporate limits of the Town of Dayton, Indiana, and all others who are served by the sewage works of the Town of Dayton, Indiana.

(C) *Powers and duties of Utility.* The Town Council acting as the Board of Public Works and Safety shall have all those powers and duties provided

by such boards by Title 36 of the Indiana Code and more specifically but not limited to the following:

- (1) The power to enter into contracts.
- (2) The power to employ professionals.
- (3) The power to construct, maintain, and improve the stormwater utility structures.
- (4) The power to make plans and ordinances regarding the collection and disposal of stormwater within the town.
- (5) The power to pass ordinances as provided for by I.C. Title 36 which impose just, reasonable and equitable fees or service charges for those who utilize the stormwater system and penalties to those who violate provisions of ordinances established for stormwater control and drainage.
(Ord. 2011-2, passed 2-7-2011)

§ 54.05 CREATION OF NON-REVERTING STORMWATER UTILITY CUMULATIVE FUND.

(A) A Non-reverting Stormwater Utility Cumulative Fund is hereby created. All proceeds received as a result of user fees and charges or penalties assessed by this chapter or subsequent amendments hereto shall be deposited in a Non-reverting Cumulative Stormwater Utility Fund. Proceeds from this Non-reverting Fund shall be for the exclusive use of the town's Stormwater Utility which includes, but is not limited to, the following:

- (1) Stormwater management services, such as studies, design, permit review, plan preparation and development review.
- (2) Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.
- (3) Project costs related to constructing major or minor structural improvements to the town's stormwater-related infrastructure.

(4) Administrative costs associated with the management of the stormwater utility user fee.

(5) Debt service financing of the town's stormwater-related capital improvements.

(6) Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work associated with the planning of the stormwater-related infrastructure.

(B) This would include but be not limited to the implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows and the construction of stormwater drains and sewers and maintain same within the town limits and the area served by the sewage works. All such expenditures for both capital and operating expenses must be first approved by the Town Council.

(Ord. 2011-2, passed 2-7-2011)

§ 54.06 STORMWATER UTILITY USER FEE.

A stormwater utility user fee shall be imposed on each and every lot or parcel of the real property within the Town of Dayton, Indiana including those classified as non-profit or tax exempt, for services and facilities provided by the Stormwater Utility. This user fee is deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system of the Town of Dayton, Indiana.

(Ord. 2011-2, passed 2-7-2011)

§ 54.07 STORMWATER UTILITY USER FEE STRUCTURE.

For the purposes stated herein, there is hereby assessed a stormwater utility user fee to each stormwater utility user within the corporate limits of the Town of Dayton, Tippecanoe County, Indiana, in an amount as determined below. For purposes of

imposing the stormwater utility user fee, all lots and parcels within the town are classified as either:

(A) Residential;

(B) Non-residential;

(C) Non-developed property.

(Ord. 2011-2, passed 2-7-2011)

§ 54.08 SCHEDULE OF RATES.

(A) The monthly stormwater utility user fee for all developed residential properties within the town shall be \$5. Duplexes shall be two times \$5. The Common Council, from time to time, by ordinance may amend the monthly charge established in this division (A).

(B) The monthly stormwater utility user fee for all developed non-residential properties within the town shall be coverage factor times size factor times \$5. The Common Council, from time to time, by ordinance may amend the monthly charge established in this division (B).

(C) Upon the town's completion of the classification procedure, the monthly stormwater utility user fee imposed for non-developed properties as defined herein shall be 0.25 times the low coverage factor times the size factor times \$5 that is being equal to 25% of the low coverage non-residential size classification.

(Ord. 2011-2, passed 2-7-2011)

§ 54.09 BILLING AND PAYMENT; PENALTIES.

(A) Bills or statements for the stormwater utility user fee shall be rendered monthly, in accordance with the regular sewage utility billing cycle, by the utility billing division of the town for all properties subject to the fee. Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth for the Sewer Utility. Any partial payment of

a combined utility bill shall be applied first to the stormwater utility user fee. Any unpaid stormwater utility user fees shall constitute a lien on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than 30 days, may be foreclosed by the town in the manner provided by the laws of Indiana for the foreclosure of mortgagees on real property.

(B) For properties normally receiving monthly utility bills for other town services, the stormwater utility user fee shall be included in the monthly sewage utility bill rendered to the established customer.

(C) For properties not receiving monthly utility bills for other town services, the bill or statement for the stormwater utility user fee shall be sent to the stormwater utility user as determined from the tax rolls. The Director may render annual, semiannual, or monthly billings, to be billed in arrears, to coincide with the property tax schedule, on such properties if determined to be the best interest of the town.

(D) The owner of a property is ultimately responsible for all fees imposed under this chapter.
(Ord. 2011-2, passed 2-7-2011)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PEDESTRIANS**
- 73. MOTORCYCLES, BICYCLES, COASTERS AND
THE LIKE**
- 74. TRAFFIC CONTROL DEVICES**
- 75. PARKING REGULATIONS**
- 76. BASKETBALL GOALS**
- 77. TRAFFIC SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

GENERAL PROVISIONS

70.01 Definitions

§ 70.01 DEFINITIONS.

Town Marshal

- 70.15 Duty of Marshal
- 70.16 Records of traffic violations
- 70.17 Marshal
- 70.18 Traffic accident reports
- 70.19 Emergency and experimental regulations
- 70.20 Authority of Marshal
- 70.21 Required obedience to traffic regulations
- 70.22 Obedience to Town Marshal

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

ALLEY. A public thoroughfare which affords only secondary means of vehicular access to abutting property and not over 20 feet in width.

AUTHORIZED EMERGENCY VEHICLE. The following vehicles:

Citations and Warrants

- 70.35 Procedure of Marshal
- 70.36 Illegal cancellation of traffic citations
- 70.37 Failure to obey citation
- 70.38 Citation on illegally parked vehicle
- 70.39 Failure to comply with traffic citation attached to parked vehicle
- 70.40 Presumption in reference to illegal parking
- 70.41 When warrant to be issued
- 70.42 Authority to impound vehicle

(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

70.99 Penalty

Cross-reference:

Police Department, see Ch. 33

Town Marshal, see §§ 32.020 through 32.024

(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)

BICYCLE. Every device propelled by human power upon which any person rides, having two tandem wheels either of which is over 20 inches in diameter.

BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, which occupy at least 200 feet of frontage on one side or 200 feet collectively on both sides of the highway.

COMMERCIAL VEHICLES. Every vehicle designed, maintained or used primarily for the transportation of property.

CONTROLLED ACCESS HIGHWAY. Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at points only and in a manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

CROSSWALK.

(1) The part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

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) of this definition, and when operated by an operator weighing 170 pounds.
(I.C. 9-13-2-49.3)

FREIGHT CURB LOADING ZONE. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

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)

LANED ROADWAY. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

MARSHAL. Every Town Marshal or Deputy Town Marshal duly appointed by the Town Council authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

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. A motor vehicle with motive power that:

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

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

(3) Satisfies the operational and equipment specifications described in 49 CFR 571 and I.C. 9-19.

The term does not include a farm tractor or a motor driven cycle.
(I.C. 9-13-2-108)

OFFICIAL TIME STANDARD. Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in the county.

OFFICIAL TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices not inconsistent with this title placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OPERATOR.

(1) Except as provided in divisions (2) and (3), when used in reference to a vehicle, a person, other than a chauffeur or a public passenger chauffeur, who:

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

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

(2) For purposes of I.C. 9-25, a person other than a chauffeur who is in actual physical control of a motor vehicle.

(3) For purposes of I.C. 9-18-2.5, an individual who:

(a) Operates; or

(b) Is in actual physical control of;

an off-road vehicle or snowmobile.

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

OWNER.

(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))

PASSENGER CURB LOADING ZONE. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

PEDESTRIAN. Any person afoot.

PERSON. Every natural person, firm, co-partnership, association or corporation.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of a highway.
(I.C. 9-13-2-155)

ROADWAY. The part of a highway improved, designed or ordinarily used for vehicular travel.
(I.C. 9-13-2-157)

SIDEWALK. The portion of a street between the curb lines or the lateral lines of the roadway and the adjacent property lines intended for the use of pedestrians.

STOP. When required means complete cessation of movement.

(1) **STOP, STOPPING or STANDING.** When prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary, to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(2) **PARK.** When prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

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)

TRAFFIC. Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any street for the purposes of travel.

TRAFFIC CONTROL SIGNAL. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

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))

(Ord. 73-5, passed - -1973)

TOWN MARSHAL

§ 70.15 DUTY OF MARSHAL.

In addition to any other duties heretofore or hereafter established, it shall be the duty of the Marshal to enforce the street traffic regulations of this town and all of the state vehicle laws applicable to a street traffic in this town, to make arrests for traffic violations, to investigate accidents and to cooperate with the Town Council and other officers of the town in the administration of the traffic laws and in

developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the Marshal by this title and the traffic regulations of the town.

(Ord. 73-5, passed - -1973)

§ 70.16 RECORDS OF TRAFFIC VIOLATIONS.

(A) (1) The Marshal shall keep a record of all violations of the traffic regulations of this town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all alleged offenses.

(2) The record shall be so maintained as to show all types of violations and the total of each.

(3) The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(B) (1) All forms for records of violations and notices of violation shall be serially numbered.

(2) For each month and year a written record shall be kept available to the public showing the disposal of all forms.

(C) All records and reports shall be public records.

(Ord. 73-5, passed - -1973)

§ 70.17 MARSHAL.

It shall be the duty of the Marshal to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to accidents.

(Ord. 73-5, passed - -1973)

§ 70.18 TRAFFIC ACCIDENT REPORTS.

The Marshal shall maintain a suitable system of filing traffic accident reports.

(Ord. 73-5, passed - -1973)

§ 70.19 EMERGENCY AND EXPERIMENTAL REGULATIONS.

(A) The Marshal, by and with the approval of the Town Council, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this town and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No temporary or experimental regulation shall remain in effect for more than 90 days.

(B) The Marshal may test traffic control devices under actual conditions of traffic.

(Ord. 73-5, passed - -1973)

§ 70.20 AUTHORITY OF MARSHAL.

(A) It shall be the duty of the Marshal to enforce all street traffic laws of this town and all of the state vehicle laws applicable to street traffic in this town.

(B) The Marshal is hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of fire or other emergency or to expedite traffic or to safeguard pedestrians, and may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(Ord. 73-5, passed - -1973)

§ 70.21 REQUIRED OBEDIENCE TO TRAFFIC REGULATIONS.

It is an infraction for any person to do any act forbidden or fail to perform any act required in this title.

(Ord. 73-5, passed - -1973)

§ 70.22 OBEDIENCE TO TOWN MARSHAL.

No person shall willfully fail or refuse to comply with any lawful order or direction of a Marshal.
(Ord. 73-5, passed - -1973)

CITATIONS AND WARRANTS**§ 70.35 PROCEDURE OF MARSHAL.**

Except when authorized or directed under state law to immediately take a person before a magistrate for the violation of any traffic laws, a Marshal who halts a person for violations other than for the purpose of giving him or her a warning or warning notice and does not take the person into custody under arrest, shall take the name, address and the operator's licence number of the person, the registered number of the motor vehicle involved and other pertinent information as may be necessary, and shall issue to him or her in writing on a form provided by the town, a traffic citation containing a notice to answer to the charge against him or her in a superior court of Tippecanoe County as determined by the Tippecanoe County Clerk of Courts at a time at least five days after the alleged violation to be specified in the citation. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release the person from custody.
(Ord. 73-5, passed - -1973)

§ 70.36 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this subchapter.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 70.37 FAILURE TO OBEY CITATION.

It shall be unlawful for any person to violate his or her written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which the citation was originally issued.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 70.38 CITATION ON ILLEGALLY PARKED VEHICLE.

Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of this town or by state law, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a traffic citation, on a form and as provided in § 70.35.
(Ord. 73-5, passed - -1973)

§ 70.39 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to the motor vehicle within a period of five days, the Marshal shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him or her of the violation and warning him or her that in the event the letter is disregarded for a period of five days, a warrant of arrest will be issued.
(Ord. 73-5, passed - -1973)

§ 70.40 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

(A) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle

described in the complaint was parked in violation of any law or regulation, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed each vehicle at the point where, and for the time during which, the violation occurred.

(B) The foregoing stated presumption shall apply only when the procedure as prescribed in §§ 70.38 and 70.39 has been followed.
(Ord. 73-5, passed - -1973)

§ 70.41 WHEN WARRANT TO BE ISSUED.

In the event any person fails to comply with a traffic citation given to the person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in a superior court of Tippecanoe County as determined by the Tippecanoe County Clerk of Courts or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the Marshal shall secure a warrant for his or her arrest.
(Ord. 73-5, passed - -1973)

§ 70.42 AUTHORITY TO IMPOUND VEHICLE.

(A) The Marshal is hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety under the circumstances hereinafter enumerated:

(1) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to an extent as to be unable to provide for its custody or removal; and

(2) When any vehicle is left unattended upon a street or alley and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(B) Whenever a Marshal removes a vehicle from a street as authorized in this section and the Marshal knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Marshal shall immediately give or cause to be given notice in writing to the owner of the fact of each removal and the reasons therefor and of the place to which the vehicle has been removed. In the event any vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.
(Ord. 73-5, passed - -1973)

§ 70.99 PENALTY.

Any person, firm or corporation who violates any provision of this title 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 Persons propelling push carts or riding animals to obey traffic regulations
- 71.05 Use of coasters, roller skates and similar devices restricted
- 71.06 Public employees to obey traffic regulations
- 71.07 Authorized emergency vehicles
- 71.08 Operation of vehicles on approach of authorized emergency vehicles
- 71.09 Immediate notice of accident
- 71.10 Following fire apparatus prohibited
- 71.11 Crossing fire hose
- 71.12 Vehicles not to be driven on sidewalk
- 71.13 Limitations on backing

Processions and Parades

- 71.25 Driving through funeral or other procession
- 71.26 Drivers in a procession
- 71.27 Funeral processions to be identified
- 71.28 Notification required for parades and processions

Obstructions

- 71.40 Obstructions prohibited
- 71.41 Exceptions
- 71.42 Enforcement
- 71.43 Remedies
- 71.44 Scope

GENERAL PROVISIONS

§ 71.01 TRUCKS PROHIBITED ON CERTAIN STREETS.

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

Penalty, see § 70.99

§ 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 § 70.99

Cross-reference:

Local designation of stop intersections, see Ch. 74

§ 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 § 70.99

§ 71.04 PERSONS PROPELLING PUSH CARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this title applicable to the driver of any vehicles, except those provisions of this title which by their very nature can have no application. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.05 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coasters, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing the person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.06 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or

town, and it shall be unlawful for any driver to violate any of the provisions of this title, except as otherwise permitted in this title or by state statutes. (Ord. 73-5, passed - -1973)

§ 71.07 AUTHORIZED EMERGENCY VEHICLES.

(A) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(B) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this title;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as he or she does not endanger life or property; and

(4) Disregard regulations governing direction of movement or turning in specified directions.

(C) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(D) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.

(Ord. 73-5, passed - -1973)

§ 71.08 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.

(A) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in the position until the authorized emergency vehicle has passed, except when otherwise directed by a Marshal.

(B) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Ord. 73-5, passed - -1973)

§ 71.09 IMMEDIATE NOTICE OF ACCIDENT.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage shall immediately by the quickest means of communication give notice of the accident to the Marshal if the accident occurs within this town.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.10 FOLLOWING FIRE APPARATUS PROHIBITED.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park a vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.11 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.12 VEHICLES NOT TO BE DRIVEN ON SIDEWALK.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.13 LIMITATIONS ON BACKING.

The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

PROCESSIONS AND PARADES**§ 71.25 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.**

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this title.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.26 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

(Ord. 73-5, passed - -1973)

§ 71.27 FUNERAL PROCESSIONS TO BE IDENTIFIED.

A funeral composed of a procession of vehicles shall be identified as that by the display upon the outside of each vehicle of a pennant or other identifying insignia and shall drive with headlights on.

(Ord. 73-5, passed - -1973)

§ 71.28 NOTIFICATION REQUIRED FOR PARADES AND PROCESSIONS.

No funeral, procession or parade containing 100 or more persons or 20 or more vehicles, excepting the forces of the United States Army or Navy, the military forces of this state, the forces of the police and fire departments, shall occupy, march or proceed along the street, without first having notified the Marshal.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

OBSTRUCTIONS**§ 71.40 OBSTRUCTIONS PROHIBITED.**

On property at any corner formed by intersecting streets, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out maintenance of any sign, hedge, shrubbery, natural growth or other obstruction to the view, higher than three feet six inches above the level of the center of the adjacent intersection, within that triangular area between the property line and a diagonal line joining points on the property lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve and a diagonal line joining points on the tangent 25 feet from the point of their intersection. The tangents referred to are those at the beginning and end of the curve at the corner.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.41 EXCEPTIONS.

The foregoing provision shall not apply to permanent buildings, public utility poles, trees trimmed (to the trunk) to a line at least eight feet above the level of the intersection, saplings, or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view, supporting members of appurtenances to permanent buildings existing on the date the ordinance herein codified becomes effective, official warning signs or signals, to places where the contour of the ground is such that there can be no cross-visibility at the intersection, or to signs mounted ten feet or more above the ground and whose supports do not constitute an obstruction as defined in § 71.40.

(Ord. 73-5, passed - -1973)

§ 71.42 ENFORCEMENT.

The enforcement of this subchapter shall be under the Marshal. The Marshal shall investigate violations of this subchapter, give notice as may be required to

carry out this subchapter, and perform other duties in connection with the enforcement of this subchapter as may be required.

(Ord. 73-5, passed - -1973)

§ 71.43 REMEDIES.

Any obstruction as maintained in violation of this subchapter shall be deemed a nuisance, and upon failure to abate it within 20 days after the posting upon the premises of notice to abate the nuisance signed by Marshal, the Marshal may enter upon the premises and remove, cause to be removed or eliminate the obstruction, to declare what shall constitute a nuisance, to prevent the same, require its abatement, authorize the removal of the same by the proper officers, and provide for the punishment of the person or persons causing or suffering the same, and to assess the expenses of its removal against the person or persons, and to provide for collecting the expenses either by causing them to be placed on the tax duplicate or by suit.

(Ord. 73-5, passed - -1973)

§ 71.44 SCOPE.

No obstruction to cross-visibility shall be deemed to be excepted from the application of this subchapter because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this subchapter.

(Ord. 73-5, passed - -1973)

CHAPTER 72: PEDESTRIANS

Section

- 72.01 Pedestrians subject to traffic control devices
- 72.02 Pedestrians' right-of-way in crosswalk
- 72.03 Crossing at right angles
- 72.04 When pedestrian shall yield
- 72.05 Prohibited crossing
- 72.06 Pedestrians walking along roadways
- 72.07 Pedestrians soliciting rides or business
- 72.08 Drivers to exercise due care

§ 72.01 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL DEVICES.

Pedestrians shall be subject to traffic control signals as declared in this title in Chapter 74, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter (Ord. 73-5, passed - -1973)

§ 72.02 PEDESTRIANS' RIGHT-OF-WAY IN CROSSWALK.

(A) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield. A pedestrian's right-of-way in a crosswalk is modified under the condition and as stated in this title.

(B) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.03 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk,

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.04 WHEN PEDESTRIAN SHALL YIELD.

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(B) The foregoing rule in this section has no application under the conditions stated in § 72.05 when pedestrians are prohibited from crossing at certain designated places.

(Ord. 73-5, passed - -1973)

§ 72.05 PROHIBITED CROSSING.

No pedestrian shall cross a roadway other than in a crosswalk in any business district.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.06 PEDESTRIANS WALKING ALONG ROADWAYS.

(A) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(B) Where sidewalks or marked walkways are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.07 PEDESTRIANS SOLICITING RIDES OR BUSINESS.

No person shall stand on a street or highway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.08 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon the roadway.
(Ord. 73-5, passed - -1973)

CHAPTER 73: MOTORCYCLES, BICYCLES, COASTERS AND THE LIKE

Section

General Provisions

73.01 Attaching to vehicles

Motorcycles

73.15 Riding on motorcycles

Bicycles

73.30 Traffic laws to apply to persons riding bicycles

73.31 Obedience to traffic control devices

73.32 Riding on bicycles

73.33 Riding on roadways and bicycle paths

73.34 Speed

73.35 Emerging from alley or driveway

73.36 Attaching to vehicles

73.37 Carrying articles

73.38 Parking

73.39 Riding on sidewalks

73.40 Lamps and other equipment on bicycles

Golf carts

73.50 Definitions

73.51 Required equipment

73.52 Regulation of operation of golf carts on town streets

73.99 Penalty

GENERAL PROVISIONS

§ 73.01 ATTACHING TO VEHICLES.

No person riding any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway. (Ord. 73-5, passed - -1973) Penalty, see § 73.99

MOTORCYCLES

§ 73.15 RIDING ON MOTORCYCLES.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear side of the operator.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

BICYCLES

§ 73.30 TRAFFIC LAWS TO APPLY TO PERSONS RIDING BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of

this town applicable to the driver of a vehicle, except as to special regulations in this subchapter and except as to those provisions of laws and ordinances which by their nature can have no application.

(Ord. 73-5, passed - -1973)

§ 73.31 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(A) Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a Marshal.

(B) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any sign, except where the person dismounts from the bicycle to make the turn, in which event the person shall then obey the regulations applicable to pedestrians.

(Ord. 73-5, passed - -1973)

§ 73.32 RIDING ON BICYCLES.

(A) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(B) No bicycle shall be used to carry more persons at one time than the number it was designed and equipped.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.33 RIDING ON ROADWAYS AND BICYCLE PATHS.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side or the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a roadway shall not ride more than single file except on paths or parts of roadways set aside for the exclusive use of bicycles.

(C) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use that path and shall not use the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.34 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.35 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley, driveway or building shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.36 ATTACHING TO VEHICLES.

No person riding upon a bicycle shall attach the same or himself or herself to any vehicle upon a roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.37 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.38 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or on the sidewalk in a rack to support the bicycle or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.39 RIDING ON SIDEWALKS.

(A) No person shall ride a bicycle upon a sidewalk within a business district.

(B) No person 16 or more years of age shall ride a bicycle upon any sidewalk in any district.

(C) Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.40 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

(A) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(C) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

GOLF CARTS**§ 73.50 DEFINITIONS.**

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

GOLF CART. As defined by I.C. 9-13-2-69.7, and shall include "off road vehicles" which shall include only three or four-wheel vehicles with the equipment required by this ordinance, and which shall have side-by-side seating and a steering wheel, but shall exclude vehicles which must be straddled to ride or which have handle bars instead of a steering wheel.

STREETS. All public streets and rights of way, except those which are subject to control by the Indiana Department of Transportation, Tippecanoe County, or by any other governmental entity.

(Ord. 2016-3, passed 5-2-2016)

§ 73.51 REQUIRED EQUIPMENT.

The operator shall be responsible for:

(A) Proof of financial responsibility as defined by I.C. 9-25-2-3;

(B) Issuance of a valid driver's license;

(C) That the golf cart is reasonable safe for use on town streets in the judgment of the Town Marshal:

(1) The golf cart must be equipped with a "slow moving vehicle" sign;

(2) The golf cart must be equipped with at least one rear-view mirror;

(3) The golf cart must be equipped with brakes, headlights and taillights; and headlights and taillights must be on during all times when cart is in operation on town streets.

(Ord. 2016-3, passed 5-2-2016)

§ 73.52 REGULATION OF OPERATION OF GOLF CARTS ON TOWN STREETS.

(A) Golf carts shall be maintained in proper working condition with all equipment in good working order.

(B) Any golf cart operated on town streets not in compliance with the requirements of this subchapter may be issued a citation pursuant to Indiana law.

(C) A golf cart may be operated only by an individual with a valid driver's license.

(D) Golf carts shall only be operated at any time except between the hours of 12:00 p.m. midnight and 6:00 a.m.

(E) All golf carts shall obey all of the rules of the road, state laws and local ordinances.

(D) Golf carts shall not exceed a speed of 20 miles per hour within town limits.

(G) All golf carts shall display a "slow moving vehicle" sign attached to the rear of the golf cart.

(H) Proof of financial responsibility (as defined by I.C. 9-25-2-3) shall be kept on the golf cart at all times.

(I) All passengers must remain seated while the golf cart is in use.

(J) The provisions and requirements of I.C. § 9-19-11-2 et seq. related to passenger restraint systems for children shall be applicable and fully enforceable with respect to golf carts within the town, and golf carts shall be considered "motor vehicles" within the context of I.C. § 9-19-11-2 et seq.

(K) Any golf cart found operating in violation of this subchapter shall be subject to the following fines:

- (1) First offense: \$50;
- (2) Second offense within one year: \$100;

(3) Third offense within one year of the second offense: \$500 and revocation of the golf cart's registration for a period of not less than one year.

(L) Any fine assessed for violation of this subchapter shall be deposited in the town's General Fund.

(M) Golf carts owned by the town shall be exempt from the requirements of this subchapter, but not the operational regulations contained herein. (Ord. 2016-3, passed 5-2-2016)

§ 73.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 70.99.

(B) *Bicycles.*

(1) It is an infraction for any person to do any act forbidden or fail to perform any act required in §§ 73.30 through 73.40.

(2) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of §§ 73.30 through 73.40.

(3) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(4) Every person convicted of a violation of any provision of this chapter as it applies to the operation of a bicycle, shall be punished by a fine of not more than \$25 or by impounding of the person's bicycle for a period of not to exceed 30 days or by any combination thereof. (Ord. 73-5, passed - -1973)

CHAPTER 74: TRAFFIC CONTROL DEVICES

Section

General Provisions

- 74.01 Establishment and maintenance of traffic control devices
- 74.02 Obedience to signals
- 74.03 Interference with signals
- 74.04 Unauthorized signals or markings
- 74.05 Manual and specification for traffic control devices
- 74.06 When traffic devices required for enforcement purposes
- 74.07 Traffic control signal legend
- 74.08 Pedestrian control signals
- 74.09 Flashing signals
- 74.10 Town Council to designate crosswalks and establish safety zones
- 74.11 Traffic lanes
- 74.12 Through streets designated

Stop and Yield Signs

- 74.25 Authority to erect stop signs
- 74.26 Stop signs or yield signs
- 74.27 Vehicles to stop at stop signs
- 74.28 Vehicles entering yield intersection
- 74.29 Emerging from alley, driveway or building
- 74.30 Stop when traffic obstructed

Speed and Turning

- 74.45 Speed regulations
- 74.46 Required position and method of turning at intersections
- 74.47 Authority to place and obedience to turning markers

- 74.48 Authority to place restricted turn signs
- 74.49 Obedience to no-turn signs
- 74.50 Limitations on turning around

GENERAL PROVISIONS

§ 74.01 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.

§ 74.02 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

§ 74.03 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

§ 74.04 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 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

§ 74.05 MANUAL AND SPECIFICATION FOR TRAFFIC CONTROL DEVICES.

(A) All traffic control signs, signals and devices shall conform to the manual and specifications approved by the State Highway Department or resolution adopted by the legislative body of this town. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the town.

(B) All traffic control devices so erected and not inconsistent with the provisions of state law or this title shall be official traffic control devices.

(Ord. 73-5, passed - -1973)

§ 74.06 WHEN TRAFFIC DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this title for which signs or markings are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, the section shall be effective even though no signs are erected or in place.

(Ord. 73-5, passed - -1973)

§ 74.07 TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic control signals exhibiting the words "GO," "CAUTION" or "STOP" or exhibiting different colored lights successively, one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(A) *Green alone or "GO."*

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at the place prohibits either turn. But vehicular

traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) *Yellow alone or "CAUTION" when shown following the green or "GO" signal.*

(1) Vehicular traffic facing the signal is thereby warned that the red or "STOP" signal will be exhibited immediately thereafter and the vehicular traffic shall not enter or be crossing the intersection when the red or "STOP" signal is exhibited.

(2) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(C) *Red alone or "STOP."*

(1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "GO" is shown alone.

(2) Pedestrians facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(D) *Red with green arrow.*

(1) (a) Vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(E) *Device at place other than intersection.* In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal.

(Ord. 73-5, passed - -1973)

§ 74.08 PEDESTRIAN CONTROL SIGNALS.

Whenever special pedestrian control signals exhibiting the words "WALK" or "WAIT" or "DON'T WALK" are in place, the signals shall indicate as follows.

(A) *"WALK."* Pedestrians facing the signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(B) *"WAIT" or "DON'T WALK."* No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Ord. 73-5, passed - -1973)

§ 74.09 FLASHING SIGNALS.

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows.

(A) *Flashing red (stop signal).* When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering into the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution. (Ord. 73-5, passed - -1973)

§ 74.10 TOWN COUNCIL TO DESIGNATE CROSSWALKS AND ESTABLISH SAFETY ZONES.

The Town Council by resolution is hereby authorized to designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway, and at other places as they may deem necessary. (Ord. 73-5, passed - -1973)

§ 74.11 TRAFFIC LANES.

(A) The Town Council is hereby authorized to cause to be marked traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(B) Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep the vehicle within the boundaries of any lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.12 THROUGH STREETS DESIGNATED.

Those streets and parts of streets described in Chapter 77, Schedule III and made a part of are hereby declared to be through streets for the purpose of this section. (Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986)

STOP AND YIELD SIGNS

§ 74.25 AUTHORITY TO ERECT STOP SIGNS.

There shall be erected at the intersection of all streets with a through street, or at all streets of an intersection where an engineering and traffic survey indicates a greater degree of safety would result, a stop sign or yield sign as set forth in Chapter 77, Schedule IV. (Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986)

§ 74.26 STOP SIGNS OR YIELD SIGNS.

(A) Every stop sign erected pursuant to this subchapter shall bear the word "STOP" in letters not less than six inches in height, and every yield sign shall bear the word "YIELD" in letters not less than seven inches in height. The signs shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed flood light projected on the face of the sign, or by sufficient reflecting elements on the face of the sign. Every stop sign and every yield sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

(B) In residence and business districts and at any place where parked vehicles may frequently obscure the stop or yield signs, the signs shall be mounted so that their lower edge will be seven feet above the top of the curb. The left edge of the sign shall be not less than one foot nor more than three feet back from the face of the curb. Where there is a marked crosswalk on the pavement, the sign shall be erected four feet in advance of the crosswalk line nearest to approaching traffic. (Ord. 73-5, passed - -1973)

§ 74.27 VEHICLES TO STOP AT STOP SIGNS.

When stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a Marshal.

(A) After the driver of a vehicle has stopped at the entrance to a through highway, the driver shall yield the right-of-way to other vehicles which have entered the intersection from the through highway as to constitute an immediate hazard, but the driver having so yielded, may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway.

(B) After the driver of a vehicle has stopped in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through highway, the driver shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.28 VEHICLES ENTERING YIELD INTERSECTION.

(A) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. The driver having so yielded and

having stopped in order to so yield, may then proceed and the drivers of all other vehicles approaching the intersection on intersecting roadways shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and who has or causes a collision with a vehicle which entered the intersection from an intersecting roadway shall prima facie be considered not to have yielded the right-of-way as required herein. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at the distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision.

(B) The driver of a vehicle approaching a yield sign is required for safety to stop shall stop before entering the crosswalk on the near side of the intersection, or, in the event there is no crosswalk at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.29 EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.30 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate

the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

SPEED AND TURNING

§ 74.45 SPEED REGULATIONS.

Except on streets and highways designated as state highways, upon which state speed limits shall pertain, the maximum speed of vehicles within the town and on all streets in the town shall be as designated. The Town Council by resolution shall designate locations where speed signs shall be located as well as give person notice thereof, and cause the signs to be erected. The Town Council by resolution from time to time shall reduce speed limits and erect signs accordingly, where it determines special hazards, not of a continuing nature, exist.

(Ord. 73-5, passed - -1973; Ord. 85-5, passed 6-3-1985)

Cross-reference:

Speed regulations, see Ch. 77, Sch. I

§ 74.46 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do as follows.

(A) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(B) *Left turns or two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the

center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(Ord. 73-5, passed - -1973)

§ 74.47 AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS.

(A) The Town Council is authorized to cause to be placed markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles at the intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(B) When authorized marker, button or other indications are placed within an intersection indicating the course to be traveled by vehicles, no driver of a vehicle shall disobey the directions of the indications. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.48 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Town Council by resolution is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn, and shall cause to be placed proper signs at the intersections. The making of those turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when the turns are permitted.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.49 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right, left or U turn is permitted, no driver of a vehicle shall disobey the directions of any sign. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

**§ 74.50 LIMITATIONS ON TURNING
AROUND.**

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

CHAPTER 75: PARKING REGULATIONS

Section

General Provisions

- 75.01 No parking where posted
- 75.02 Limited parking
- 75.03 Other parking restrictions
- 75.04 Parking for persons with physical disability

Stopping, Standing and Parking of Vehicles

- 75.15 Standing or parking too close to curb
- 75.16 Signs or marking indicating parking methods or restrictions
- 75.17 Parking prohibited in specific places
- 75.18 Storing of vehicles on streets
- 75.19 Loading zones
- 75.20 Unauthorized parking on private property
- 75.21 Commercial vehicle parking
- 75.22 Yard parking
- 75.23 Parking of vehicles with “for sale” signs
- 75.24 Snow emergencies
- 75.99 Penalty

GENERAL PROVISIONS

§ 75.01 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 § 75.99

§ 75.02 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 § 75.99

§ 75.03 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 § 75.99

§ 75.04 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 § 75.99

Statutory reference:

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

***STOPPING, STANDING AND PARKING
OF VEHICLES***

**§ 75.15 STANDING OR PARKING TOO
CLOSE TO CURB.**

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curb-side wheels of the vehicle within 12 inches of the curb or edge of the roadway except as otherwise provided in this subchapter.

(Ord. 73-5, passed - -1973; Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

**§ 75.16 SIGNS OR MARKING INDICATING
PARKING METHODS OR RESTRICTIONS.**

The Town Council shall determine how and where parking shall occur and shall direct the placing of signs or markings indicating how parking may occur or where it shall not occur. The Town Council shall determine what parking restrictions are appropriate at any location, based upon traffic safety and the convenience and welfare of nearby properties and their uses. The restrictions may include whether parking is permitted or not, a restriction upon the length of time of parking by any one vehicle in the same block, and restrictions on the time of day parking is permitted. Upon any street or alley so signed or marked, no person shall park or stand a vehicle except in obedience to signs or markings. No parking regulations or restrictions based upon time shall be effective until signed.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.17 PARKING PROHIBITED IN SPECIFIC PLACES.

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk or between sidewalk and curb;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the city traffic engineer has indicated a different length by signs;
- (9) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance, when properly sign posted;
- (10) Alongside or opposite any street excavation or obstruction where stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) At any place where official signs prohibit stopping;

(14) On the traveled portion of any roadway, which does not have a curb or gutter, when stopping, standing or parking would obstruct traffic; or

(15) Upon any islands which separate traffic lanes.

(B) No person shall move a vehicle not lawfully under the person's control into any prohibited area or away from a curb the distance as is unlawful. (Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.18 STORING OF VEHICLES ON STREETS.

No person shall stand or park any vehicle upon a street or alley in any part of the traveled portion of the roadway, except as required by other stopped traffic. (Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.19 LOADING ZONES.

The town is authorized to determine the location of passenger and freight curb loading zones and any restrictions upon the use thereof, including the hours during which a zone may be used or the types of vehicles or uses for the zone. No person may use any loading zone for longer than necessary for loading or unloading and in no event more than 30 minutes at a time. The town shall direct loading zones and any restrictions to be marked or signed as provided in this title. No person shall use any loading zone except in obedience of the restrictions.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.20 UNAUTHORIZED PARKING ON PRIVATE PROPERTY.

(A) *Private property.* **PRIVATE PROPERTY** is defined as any property that is not dedicated public right-of-way.

(B) *Unauthorized parking prohibited.* It is unlawful for any person to park any motor vehicle, house trailer, one-, two- or three-wheel trailers, tractor trailer or any other type of motorized or non-motorized conveyance ordinarily pulled or attached to a motor vehicle, on any private property without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent or trustee of the property. A complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of the property.

(C) *Complaints; towing.* A complaint for violation of this section shall be made on the form prescribed by the Police Chief and signed by the complainant. The vehicle shall be ticketed for a violation of this section and/or other ordinances of the town.

(D) *Towing, retail and other parking.* The investigation officer may direct the vehicle to be removed immediately if:

(1) The illegally parked vehicle is in a parking lot used for retail establishments, professional offices, a house of worship or a public building; and

(2) All vehicular entrances to the parking lot have signs posted prohibiting unauthorized parking, on a form prescribed by the town.

(E) *Towing, other bases.* The investigating officer may also direct the removal of the vehicle if the vehicle remains illegally parked on private property for more than four hours after the vehicle was ticketed for unauthorized parking.

(F) *Removal of illegally parked vehicle.* An investigating officer who directs the removal of an illegally parked vehicle under this section shall arrange for the same to be removed by a reputable towing company and placed in a reputable storage or parking facility.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.21 COMMERCIAL VEHICLE PARKING.

No person shall park, for more than four hours, in a residential district, a vehicle designed, used or maintained as a commercial vehicle including any bus or commercial truck, as hereafter defined, or any vehicle designed or modified to serve purposes other than the transportation of persons, if the vehicle is used in or is part of a business or service. Notwithstanding the above, a commercial vehicle shall not include municipal or other governmental vehicles, public utility vehicles, vehicles delivering services or authorized emergency vehicles, nor shall political stickers, signs or advertisements constitute a business, service or product for the purposes of this section. Commercial vehicles shall include a motor vehicle designed and registered as a truck and licensed under the motor carrier laws of the state for the transportation of property but not persons, or a motor vehicle designed and registered as a truck and used exclusively in the transportation of property in commerce but not for the transportation of persons at any time. A commercial truck shall not include station-wagon types, utility class vehicles, pickup trucks, any vehicle in which the cargo space is enlarged by the removal or folding down of seats, vans with more seats than for a driver and helper or any vehicle originally designed as a passenger-type vehicle.

(Ord. 01-06, passed 9-10-2001)

§ 75.22 YARD PARKING.

No person shall operate or park any motor vehicle, camper, trailer of any type, all-terrain vehicle including four-wheelers and snowmobiles, machinery, or equipment on any portion of a lot in any residential district other than on a drive or approved parking area. No person shall operate or park any motor vehicle, camper, trailer of any type, all-terrain vehicle including four-wheelers and snowmobiles, machinery, or equipment on any portion of a lot in any residential district in a way requiring driving the vehicle over the curb instead of through a curb out.

(Ord. 01-06, passed 9-10-2001; Ord. 14-15, passed 11-3-2014) Penalty, see § 75.99

**§ 75.23 PARKING OF VEHICLES WITH
“FOR SALE” SIGNS.**

(A) This section applies to any vehicle displaying a “for sale” sign (including any other sign regardless of wording implying that the vehicle is for sale), other than a vehicle offered for sale at a licensed motor vehicle dealer.

(B) A vehicle, when not in use shall not be parked overnight with a “for sale” sign displayed in any parking lot in a commercial zone (NB, NBU, OR, MR, GB, HB, CB, CBW, I1, I2, I3, PDNR and PDMX).

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.24 SNOW EMERGENCIES.

(A) Whenever, as determined by the President of the Town Board, or designee, a snow emergency exists, it is unlawful to park vehicles on emergency snow routes. Snow emergency routes shall be appropriately signed as determined by the Parking Commission. Any vehicle parked or stopped on such streets at the time a snow emergency is declared shall have 12 hours to vacate the above stated emergency snow routes to allow for proper snow plowing. Any vehicle remaining on emergency snow routes after 12 hours shall be determined to be blocking efficient snow removal and may be removed at the owners' expense by any member of the Town Marshal's Department and taken to the nearest garage or other place of safety for storage until claimed by the owner of such vehicle. This section on parking after snow shall remain in effect from the time a snow emergency is declared until such time as the emergency is declared passed by the President of the Town Board, or designee.

(B) In the event of a snow accumulation event of one-half of one inch or more, parking on town streets shall only be permitted on the north side of the street where the street runs primarily from east to west, on the east side of the street where the street runs primarily north to south, and where a street runs primarily southwest to northeast, then parking is only permitted on the northwestern side of the street.

(C) Members of the Town Marshal's Department are authorized to immediately remove a vehicle when any vehicle is remaining on a snow emergency route 12 hours after a snow emergency has been declared by the President of the Town Board, or designee.

(D) Members of the Town Marshal's Department are authorized to immediately remove a vehicle found to be in violation of division (B) for a period of more than 12 hours.

(Ord. 14-14, passed 11-3-2014)

§ 75.99 PENALTY.

(A) 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.

(B) Violation of this chapter shall be forwarded to the Ordinance Violation Bureau for Disposition. (Ord. 73-5, passed - -1973; Ord. 01-06, passed 9-10-2001)

CHAPTER 76: BASKETBALL GOALS

Section

- 76.01 Approval for goal in right-of-way
- 76.02 Guidelines for approval
- 76.03 Indemnity
- 76.04 Right to revoke permission

(C) Analyze traffic accident study; considering types and causes of and traffic accidents occurring on the street for which request was made;

(D) Analyze speed study on the street for which request was made; and

§ 76.01 APPROVAL FOR GOAL IN RIGHT-OF-WAY.

(A) The resident/property owner shall file a letter of request with the Town Council for approval of erecting a basketball goal on adjacent right-of-way.

(B) This request shall be accompanied by the written consent of all property owners located on the same street within 100 feet of proposed basketball goal.

(C) The Town Council shall refer the request to the Committee on Traffic, Parking and Public Safety to evaluate and make a recommendation as to allow or not allow a basketball goal and report the recommendation back to the Town Council.
(Prior Code, § 94.01) (Ord. 95-3, passed 3-6-1995)

§ 76.02 GUIDELINES FOR APPROVAL.

Each request would be evaluated on a case-by-case basis consistent with the ordinances of the town and the guidelines set forth below:

(A) Considering the type of street for which the request was made, i.e., cul-de-sac, dead end, court, main thoroughfare;

(B) Analyze traffic counts on the street for which request was made;

(E) Considering proposed placement of basketball goal.

(Prior Code, § 94.02) (Ord. 95-3, passed 3-6-1995)

§ 76.03 INDEMNITY.

The resident/property owner shall furnish the town with a letter indemnifying the town for any property damage or personal injury caused by the placement of the basketball goal along with a certificate of insurance.

(Prior Code, § 94.03) (Ord. 95-3, passed 3-6-1995)

§ 76.04 RIGHT TO REVOKE PERMISSION.

The Town Council will have the right to revoke permission if, based on a report by the Committee on Traffic, Parking and Public Safety, the situation becomes unworkable.

(Prior Code, § 94.04) (Ord. 95-3, passed 3-6-1995)

CHAPTER 77: TRAFFIC SCHEDULES

Schedule

- I. Speed regulations
- II. Commercial vehicles
- III. Through streets
- IV. Stop intersections
- V. Yield signs

SCHEDULE I. SPEED REGULATIONS.

Except on streets and highways designated as state highways upon which state speed limits shall pertain, the maximum speed of vehicles within the town and on all streets in the town shall be as follows.

(A) *Speed limit; 25 mph.*

<i>Street</i>
Cagles Mill Drive
Clifty Falls Drive
Clifty Falls Lane West
Conjunction Street, from Meadow Lane to Cagles Mill Drive
Conjunction Street, from Walnut Street to College Street
Dayton Road North, from College Street to Walnut Street
Dayton Road North, from Walnut Street to College Street
Delaware Street
Dryer Drive
Favorite Drive
Harrison Circle
Harrison Street
Hine Street
Jefferson Street

Dayton - Traffic Code

<i>Street</i>
Main Street, from Harrison Street to Delaware Street
Marquis Circle
Meadow Lane
Nicely Drive
Ohio Street
Paden Drive
Pennsylvania Street
Prairie Lane
Quabache Court
Republican Street
Ricks Drive
Shady Lane
Shakamak Court
South Street
Turkey Run Court
Washington Street
Wesleyan Drive
Yost Drive

(B) *Speed limit; 25 mph, except when schools are in session, then 20 mph.*

<i>Street</i>
College Street, from Dayton Road North to Conjunction Street
Conjunction Street, from College Street to Meadow Lane
Dayton Road North, from College Street to the northern town limits
Dayton Road North, from the northern town limits to College Street
Dayton Road South, from the southern town limits to Walnut Street
Dayton Road South, from Walnut Street to the southern town limits
Market Street, from Walnut Street to College Street

(Ord. 95-13, passed 12-28-1995; Ord. 98-14, passed 11-2-1998; Ord. 2016-7, passed 10-10-2016) Penalty, see § 70.99

[Text continues on pg. VII-43]

SCHEDULE II. COMMERCIAL VEHICLES.

(A) Drivers of commercial vehicles, same being a vehicle designed, maintained or used primarily for the transportation of property, of one-ton capacity or more, or whose gross weight exceeds eight tons, except those commercial vehicles having either their origin or destination within the town limits, are hereby prohibited from operating or driving a commercial vehicle over any town street or portions of town street, except on State Road No. 38.

(B) All commercial vehicles of one ton capacity or more, or whose gross weight exceeds eight tons, whose origin or destination is within the town limits shall proceed from its point of origin by the most direct street or streets to State Highway No. 38, and the commercial vehicles having their destination within the town limits shall proceed upon State Road No. 38 to its closest point to the point of destination, and then proceed by the most direct street or streets of the town to the point of destination.

(C) Any violation of any of the provisions of this schedule is to be declared unlawful and an infraction and any person found violating the provisions of this schedule shall be punished by a fine not less than \$100 and not more than \$500.

(Ord. 80-10, passed 8-18-1980)

SCHEDULE III. THROUGH STREETS.

The following streets are hereby designated as through streets, except where stop signs are erected.

<i>Through Streets</i>
State Road No. 38
All streets running in a north and south direction, except where the streets intersect State Road No. 38 where the state road shall have preference and be the through street

(Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986) Penalty, see § 70.99

SCHEDULE IV. STOP INTERSECTIONS.

(A) Stop signs shall be erected on the following streets at the following locations.

<i>Street</i>	<i>At Street's Intersection With:</i>
At the intersection of all streets running north and south where the north and south streets intersect with	State Road No. 38
Clifty Falls Lane	Dayton Road North
Conjunction Street	College Street
Conjunction Street	Meadow Lane
Harrison Street	Main Street
Jefferson Street	Dayton Road
Jefferson Street	Conjunction Street
Market Street	Jefferson Street
Meadow Lane	Conjunction Street
Meadow Lane	Prairie Lane
Ohio Street	Conjunction Street
Ricks Drive	South Street
Shady Lane	Dayton Road
South Street	Dayton Road
Washington Street	Jefferson Street
Washington Street	Meadow Lane

(B) Where either stop signs or yield signs have been herein authorized at intersections, the signs shall be erected on both sides of the intersection.

(Ord. 73-5, passed - -1973; Ord. 83-9, passed 9-12-1983; Ord. 86-3, passed 6-2-1986; Ord. 97-4, passed 7-7-1997; Ord. 98-11, passed 10-5-1998; Ord. 13-13, passed 11-4-2013) Penalty, see § 70.99

SCHEDULE V. YIELD SIGNS.

(A) Yield signs shall be erected on the following streets at the following locations:

(1) At the intersection of all streets running in an east and west direction with streets running north and south, except at those streets where stop signs have not been above provided for, and further except on State Road No. 38; and

(2) On Prairie Lane at its junction with Washington Street.

(B) Where either stop signs or yield signs have been herein authorized at intersections, the signs shall be erected on both sides of the intersection.

(Ord. 86-3, passed 6-2-1986)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED VEHICLES**
- 91. ANIMALS**
- 92. NUISANCES**
- 93. STREETS AND SIDEWALKS**
- 94. ALARM SYSTEMS**
- 95. FAIR HOUSING**
- 96. CONSTRUCTION OF DRIVEWAYS**

CHAPTER 90: ABANDONED VEHICLES

Section

- 90.01 Definitions
- 90.02 Prohibition
- 90.03 Removal and disposal
- 90.04 Violation
- 90.05 Removal; payment of towing and storage; adherence to violation ticket
- 90.06 Revolving fund
- 90.99 Penalty

§ 90.01 DEFINITIONS.

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

ABANDONED. When used in conjunction with a term **VEHICLE** means any of the following:

(1) Any vehicle stored or allowed to remain in the open on public premises or private premises which does not have lawfully affixed thereto or displayed thereon a valid, unexpired license plate permitting its operation upon the highways in the State of Indiana.

(2) Any vehicle which is left on public premises continuously without being moved for a period of five days.

(3) Any vehicle located on public premises or private premises illegally or in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.

(4) Any vehicle which has remained on private premises without the consent of the owner or person in control of the premise for more than 48 hours.

(5) Any vehicle stored or allowed to remain in the open from which there has been removed the engine, transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises, or, on private premises for more than 15 days, unless the premises is in connection with an automotive sales or repair business enterprise which is located in a properly zoned area.

(6) Any vehicle which has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, the violation of which may require the removal and impoundment of the motor vehicle, and which motor vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 30 days of its removal.

AUTOMOBILE WRECKER. An automobile wrecking and parts business.

BUREAU. The Bureau of Motor Vehicles of the State of Indiana.

COMMISSIONER. The Commissioner of the Bureau.

DISPOSAL AGENT. Any firm or individual engaged in business as a scrap metal processor or automobile wrecker.

OFFICER. Any regular member of the Indiana State Police, any town marshal or town marshal deputy or any regular member of the County Sheriff's Department.

OWNER. The last known record title holder to a vehicle according to the records of the Bureau of Motor Vehicles.

PARTS. All component parts of a vehicle which are in a state of disassembly, or are disassembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

PERSON. All natural persons, firms, partnerships and corporations.

PRIVATE PREMISES. All privately owned property which is not classified within the definition of public premises.

PUBLIC AGENCY. The department of local government which is assigned the local responsibility for removal, storage and disposal of abandoned vehicles by ordinance of the Town Council.

PUBLIC PREMISES. Any public right-of-way, street highway, alley, park or other state, county or municipally owned property.

SCRAP METAL PROCESSOR. An establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and scrap steel or nonferrous scrap for sale for remelting purposes

TOWING SERVICE. A business organized for the purpose of moving or removing disabled motor vehicles, and, once removed, to store or impound the motor vehicles.

VEHICLE. Any motor vehicle, automobile, motorcycle, truck, trailer, semi-trailer, truck, tractor, bus, school bus, house car, motor bicycle, house

trailer, or any other type of motorized or nonmotorized conveyance ordinarily pulled or attached to a vehicle

(Prior Code, § 71.01) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996)

§ 90.02 PROHIBITION.

It shall be unlawful for any person to park any vehicle on any public premises or private premises, without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent, or trustee of the property. Complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of the property to the Town Marshal of the town.

(Prior Code, § 71.02) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.03 REMOVAL AND DISPOSAL.

The Town Council and Town Marshal of the town are the agencies assigned the responsibility for removing vehicles under the provisions of this chapter.

(A) When a complaint is made to Town Marshal regarding unauthorized parking pursuant to § 90.02, the investigating officer will complete the complaint form and have it signed by the complainant. The vehicle shall be ticketed for a violation of this chapter or other ordinances of this town. The investigating officer may also direct the removal of the vehicle by a reputable towing firm to a reputable storage or parking garage if the vehicle remains illegally parked on private property for more than four hours after the vehicle was ticketed for unauthorized parking.

(B) Whenever a Town Council member, Town Marshal or Deputy Marshal find any abandoned vehicle placed or stored in the open upon public property within the town, he or she shall issue an order to the owner of the vehicle to remove the vehicle within three days. Notice of the order shall be placed upon the vehicle. If the vehicle is not removed

within three days pursuant to the order and notice, the Town Council member, Marshal or Deputy Marshal shall cause the vehicle to be removed by an automobile wrecker or towing service. The cost and expense of the removal and storage to be paid by the owner of the vehicle.

(C) (1) Whenever a Town Council member, Marshal, Deputy Marshal find any abandoned vehicle place or stored in the open upon private property within the town, he or shall issue an order to the owner of the vehicle to remove the vehicle within ten days. Notice of the order shall be placed upon the vehicle and copies of the notice shall be served upon any adult occupying the real estate on which the vehicle is located and also upon the owner of the vehicle, if his or her name and whereabouts be known. If no occupant of the real estate or owner of the vehicle can be found, a notice affixed to any building on the real estate shall constitute a notice to the owner and occupant of he real estate and to the owner of the property.

(2) If there is no building on the real estate, the notice may be affixed elsewhere on the real estate. If the vehicle is not removed within ten days pursuant to the order an notice, and if the order is not stayed by the issuing officer pursuant to a written request showing good cause for a permanent or temporary stay, the Town Council member, Marshal, or Deputy Marshal shall cause the vehicle to be removed by an automotive wrecker or towing service. The cost and expense of the removal shall be paid by the owner of the vehicle.

(Prior Code, § 71.03) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.04 VIOLATION.

In any proceeding for violation of this chapter the registration plate displayed on the motor vehicle shall constitute in evidence a prima facie presumption that

the owner the motor vehicle was the person who parked or placed the motor vehicle at the point where the violation occurred.

(Prior Code, § 71.04) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.05 REMOVAL; PAYMENT OF TOWING AND STORAGE; ADHERENCE TO VIOLATION TICKET.

Before the owner or person in charge of any impounded vehicle shall be permitted to remove the impounded vehicle from the custody of the owner, agent, employee, or lessee of the parking area or garage where the vehicle has been stored, he or she will pay any and all towing charges plus storage charge. He will also read and adhere to the instructions on the violation ticket placed on the vehicle by the investigating police officer.

(Prior Code, § 71.05) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996)

§ 90.06 REVOLVING FUND.

There is hereby created the Town Junk Vehicle Fund which shall be a revolving fund, and all monies paid to the town for the cost of removal, storage, and disposal of abandoned vehicles shall be placed in the fund an in no other place. The fund shall also have added to it monies as may be appropriated by the Town Council and the monies also shall not revert but shall remain in the Junk Vehicle Fund.

(Prior Code, § 71.06)

§ 90.99 PENALTY.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereunder shall be fined not exceeding \$500 or be imprisoned not exceeding five days, or be subject to fine and imprisonment. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Prior Code, § 71.07)

CHAPTER 91: ANIMALS

Section

- 91.01 Adopting county animal control regulations by reference

§ 91.01 ADOPTING COUNTY ANIMAL CONTROL REGULATIONS BY REFERENCE.

(A) The Animal Control Ordinance for Unincorporated Tippecanoe County (93-25-CM) as amended, is incorporated by reference as part of this chapter and it is hereby enacted and adopted and approved as a general ordinance of the town.

(B) Two copies of the Animal Control Ordinance for Unincorporated Tippecanoe County (93-25-CM) as amended, are on file in the office of the Town Clerk-Treasurer for public inspection.
(Ord. 94-4, passed 5-2-1994)

CHAPTER 92: NUISANCES

Section

Weeds

- 92.01 Definitions; exclusions
- 92.02 Owners responsible for trimming, removal and the like
- 92.03 Filing complaint
- 92.04 Notice of violations
- 92.05 Appeals
- 92.06 Abatement by town
- 92.07 Liability

Graffiti

- 92.20 Graffiti defined
- 92.21 Graffiti removal required
- 92.22 Graffiti removal by town authorized
- 92.23 Lien for costs of graffiti removal incurred by town
- 92.24 Appeal rights
- 92.25 Recovery of cost of removal from person responsible for placing graffiti

Consumer Fireworks

- 92.35 Permitted use
- 92.99 Penalty

Statutory reference:

Removal of weeds and rank vegetation, see I.C. 36-7-10.1

WEEDS

§ 92.01 DEFINITIONS; EXCLUSIONS.

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

CONSUMER FIREWORK. Shall be defined as provided in I.C. § 22-11-14-1, as it may be amended from time to time.

DESTRUCTION ORDER. The notice served by the enforcement authority on the property owner of the ordinance violation.

ENFORCEMENT AUTHORITY. The Town Marshal, or in cases of appeal, the Town Council.

FIREWORK. Shall be defined as provided in I.C. § 22-11-14-1, as it may be amended from time to time.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

RANK VEGETATION. The uncontrolled, uncultivated growth of annuals and perennial plants.

WEEDS, GRASSES. Includes Canada thistle, thistles, johnson grass, sorghum, alum (i.e., allium), bur cucumber and shattercane, but shall not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(C) The State Cooperative Extension Service shall be the referenced technical authority for the enforcement authority with respect to the definition of exempt matters, shrubs, trees, cultivated plants and crops.
(Ord. 2016-5A, passed 10-10-2016)

§ 92.02 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners within the corporate limits of the town shall be required and be financially responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property which, at the time of notice, is in excess of ten inches in average height, and in no event exceeds 15 inches maximum height on at least 20% of the surface area of the property.

§ 92.03 FILING COMPLAINT.

Any person, including the town or any employee of the town, who believes there is a property located within the corporate limits of the town which has growing plant matter in violation of the Code of Ordinances of the town may make a written complaint and file the complaint with the Town's Clerk-Treasurer or the Clerk-Treasurer's designee. Complaints must include the printed name and signature of the complainant and dated on the date submitted to the Clerk-Treasurer or his or her designee.

(Ord. 2016-6, passed 10-10-2016)

§ 92.04 NOTICE OF VIOLATIONS.

After the Clerk-Treasurer or his or her designee has received a complaint as provided in § 92.03, the Clerk-Treasurer shall deliver the complaint to the Town Marshal or a deputy marshal within two business days. The Town Marshal or deputy marshal shall, within two business days following the delivery of the complaint by the Clerk-Treasurer or his or her designee, inspect the subject property of the complaint. If the Town Marshal or deputy marshal discovers a violation, the Town Marshal or deputy marshal shall provide written notification to the property owner and to the property occupant of the non-compliance, which notification shall be delivered and/or affixed to the property in a manner reasonably calculated to be discovered by the owner or occupant, shall also be sent to the owner and occupant by U.S.

Post, and shall also be filed with the Clerk-Treasurer. The notice shall instruct the owner and/or occupant that the property is substantially non-compliant with the town ordinance, shall cite to this chapter, and shall cite the date and time that the notice was delivered or affixed to the property, and instruct the owner and/or occupant that if the non-compliance is not cured within 72 hours from the posting of the notice, the noncompliance will be cured by the town, at the expense of the owner and/or occupant.

(Ord. 2016-6, passed 10-10-2016)

§ 92.05 APPEALS.

(A) The property owner and/or occupant may appeal the written notice from the Town Marshal or deputy marshal within 48 hours following the posting of the notice, excluding weekends and holidays, if the property owner and/or occupant contests the presence of a violation.

(B) An appeal by the property owner and/or occupant shall be brought before the Town Council at its next regularly scheduled or special meeting, and shall be decided by a majority vote of the Council members in attendance.

(Ord. 2016-6, passed 10-10-2016)

§ 92.06 ABATEMENT BY TOWN.

In the event that the property owner and/or occupant fails to cure the non-compliance as specified in § 92.04 or file a timely appeal as specified in § 92.05, the Town Marshal, deputy marshal, Clerk-Treasurer, town manager, or other designee of the Town Council may, by any lawful means, employ the services of town employees or outside contractors to cure the non-compliance on the property which is the subject of the complaint.

(Ord. 2016-6, passed 10-10-2016)

§ 92.07 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorneys' fees and interest on any unpaid amounts incurred by the town. If the enforcement authority uses municipal employees, the town shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the Town Clerk-Treasurer and to be deposited in a general fund, as compensation for expenses and costs incurred by the town.

(D) (1) Except as provided in division (D)(2), if the property owner fails to pay a bill issued under this chapter within the time specified in this chapter, the town shall certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The Auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the General Fund of the town.

(2) If the owner of real property fails to pay a bill issued under this chapter within the time specified in this chapter, the town or county may bring an action in an appropriate court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the town or county obtains a judgment under this division, the municipality or county may obtain a lien in the amount of the judgment on any real or personal property of the owner.

(I.C. 36-7-10.1-4)

GRAFFITI

§ 92.20 GRAFFITI DEFINED.

For purposes of this subchapter, the term ***GRAFFITI*** shall mean any unauthorized inscription or representation, on a building, structure, wall, sign,

fence, sidewalk, pavement, post, stone, tree or other object or structure, of any symbol, diagram, letter, word, numeral, emblem, picture, character, or combination thereof, by carving, application of paint or other substance other than as permitted by this code.

(Ord. 2012-5, passed 6-4-2012)

§ 92.21 GRAFFITI REMOVAL REQUIRED.

(A) It shall be the duty of the owner or occupant of the building, structure, wall, dumpster or other personal property upon which any graffiti has been placed to remove, cover or eradicate the graffiti.

(B) When graffiti is found to be on private property, the Police Department shall notify the property owner in writing, with a copy to the occupant if applicable, of the graffiti and request its removal within 15 days.

(C) For good cause shown, the owner or occupant may be given additional time to meet the removal requirements without being charged with a violation of this section.

(Ord. 2012-5, passed 6-4-2012) Penalty, see § 92.99

§ 92.22 GRAFFITI REMOVAL BY THE TOWN AUTHORIZED.

In addition to any fine that may be imposed, if the owner, or occupant fails to remove, cover or otherwise eradicate the graffiti within 15 days from the issuance of the notice, or such later date as the owner or occupant may be allowed, the town or its authorized agent may enter upon the property and remove such graffiti by any means necessary, and the cost of removal shall be collected from the owner or occupant of the property.

(Ord. 2012-5, passed 6-4-2012)

§ 92.23 LIEN FOR COSTS OF GRAFFITI REMOVAL INCURRED BY TOWN.

(A) Within ten days, following the removal by the town of any graffiti from private property, the town shall send the property owner a notice of intent to assess costs, detailing the cost remaining unpaid by the property owner and that, within 30 days of the date of the removal of the graffiti, the cost shall become a lien upon the real estate affected, unless appealed as provided in § 92.24, in which case the amount of the final determination shall become a lien upon the affected real estate.

(B) A town representative shall report the costs to the Town Clerk, who shall certify the costs to the County Auditor.

(C) The Auditor shall place the same on the tax duplicate as a charge against the owner of the real estate, to be collected by the County Treasurer with the state, county and municipal taxes assessed against the owner's real estate at the regular time for paying the taxes.

(Ord. 2012-5, passed 6-4-2012)

§ 92.24 APPEAL RIGHTS.

(A) The owner or occupant of the property may seek relief from the cost of the removal and abatement of the graffiti, as provided in §§ 92.22 and 92.23, by making a written request to the Town Council, providing all reasons and explanations justifying any modification or waiver of those costs.

(B) Each written request must be made within ten days after receiving the notice of intent to assess costs.

(C) The Town Council shall, at its next regularly scheduled meeting that is at least seven calendar days after receipt of such written appeal, either waive, modify or reaffirm those costs, and provide a written statement of its determination to the property owner.

(D) The determination of assessment by the Town Council shall be final and a lien shall be placed upon the affected property for all assessed costs as finally determined.

(Ord. 2012-5, passed 6-4-2012)

§ 92.25 RECOVERY OF COST OF REMOVAL FROM PERSON RESPONSIBLE FOR PLACING GRAFFITI.

The town's exercise of the remedies provided in this subchapter shall not prevent the owner or occupant from recovery, through civil suit or otherwise, of the cost of removal or other reparation from the person responsible for placing the graffiti on the owner's or occupant's property.

(Ord. 2012-5, passed 6-4-2012)

CONSUMER FIREWORKS**§ 92.35 PERMITTED USE.**

(A) This subchapter applies only to the incorporated town within the town's boundaries, as they may be annexed or disannexed from time to time.

(B) Consumer fireworks may be used or discharged within the incorporated Town of Dayton, Indiana beginning on June 29 of each year and ending on July 9 of each year.

(C) Consumer fireworks may only be used or discharged within the incorporated town on days permitted in division (B) between the hours of 5:00 P.M. and 11:30 P.M., local time or two hours after sunset, whichever is later, except that on July 4 of each year fireworks may be used or discharged from 10:00 A.M. until 12:00 midnight, and on December 31 of each year fireworks may be used or discharged beginning at 10:00 A.M. and continue until 1:00 A.M. on the immediately following January 1.

(D) The Town Marshal of the town, or any of the Town Marshal's deputies, may enforce this subchapter.

(E) The Town Marshal or Deputy Marshal may seize and dispose of consumer fireworks used in violation of this subchapter, or in the possession of individuals unlawfully using or discharging fireworks in violation of this subchapter.

(F) In addition to the seizure and disposition of consumer fireworks that are used in violation of this section or in the possession of individuals unlawfully using or discharging fireworks in violation of this section, whoever violates this chapter may be fined not more than \$250. A separate offense may be deemed committed on each day that a violation occurs or continues.

(G) Notwithstanding this subchapter, to the extent that this subchapter conflicts with Indiana law or to the extent that Indiana law imposes additional or narrower restrictions on the use of consumer fireworks, the limitations of Indiana law shall be controlling.

(Ord. 2016-5A, passed 10-10-2016)

§ 92.99 PENALTY.

At the discretion of the town or the Marshal any property owner may be fined any amount up to \$500 for a violation of this chapter. Each day shall constitute a separate violation. The property owner may be cited and fined in addition to previous provisions of this chapter.

(Ord. 2012-5, passed 6-4-2012; Ord. 2016-6, passed 10-10-2016)

CHAPTER 93: STREETS AND SIDEWALKS

Section

- 93.01 Repair by owner/occupant
- 93.02 Permit required
- 93.03 Sub-grade construction
- 93.04 Material
- 93.05 Joints
- 93.06 Driveways
- 93.07 Alleys
- 93.08 Council resolution and notice
- 93.09 Prohibition
- 93.10 Duty of owner

- 93.99 Penalty

Cross-reference:

Obstructions, see §§ 71.40 through 71.44

§ 93.01 REPAIR BY OWNER/OCCUPANT.

(A) Whenever any sidewalk within the limits of the town shall need repair or whenever any hole thereof or obstruction to free passage thereof shall exist, it shall be lawful for the owner or occupant of the lot or land bounding thereon to repair, remove or abate the same at his or her own expense after having first obtained a permit as required herein.

(B) All sidewalks made new, replace or repaired within the town shall be made in conformity with the provisions of this chapter
(Ord. 70-5, passed 1-4-1971)

§ 93.02 PERMIT REQUIRED.

Any person desiring or required to build, replace or repair any sidewalk within the town, before doing or commencing any construction work thereon except where sidewalks are to be laid in accordance with the provisions of any special improvement resolution of

the Town Council, must file an application for a permit therefor with the Clerk-Treasurer which application shall be signed by the owner or agent of the abutting property where the sidewalk is to be built, replace or repaired and the Clerk-Treasurer shall issue the permit when the plans and specifications for the sidewalk, which must be filed by the applicant when requesting a permit, are found by the Clerk-Treasurer to conform to this chapter.
(Ord. 70-5, passed 1-4-1971)

§ 93.03 SUB-GRADE CONSTRUCTION.

The sub-grade shall be constructed to the depth below the finished surface in accordance with the requirements of the Town Council as from time to time adopted thereby.
(Ord. 70-5, passed 1-4-1971)

§ 93.04 MATERIAL.

(A) All sidewalks shall be built of Portland Cement Concrete of the type and strength as the Town Council may, from time to time, adopt, and shall be depth of at least four inches, and shall be 36 inches wide or were sidewalks now exist shall be the width of the existing sidewalk.

(B) The sub-grade shall be wetted before the concrete is placed therein. The concrete shall be deposited within the forms upon the wetted sub-grade to such a depth that after being compacted it shall be to the full thickness required. It shall be leveled off and tamped sufficiently to bring the mortar to the surface after which it shall be finished smooth and even by means of a wood float. The edges shall be rounded with and edger having a radius of one-fourth inch. Transverse joints shall be cut with a jointer having a radius of one-fourth inch, at intervals not greater than the width of the sidewalk being

constructed. No concrete work shall be done during freezing weather.

(Ord. 70-5, passed 1-4-1971)

§ 93.05 JOINTS.

Expansion joints shall be used where required by the Town Council. The preformed filler to be used in the expansion joints shall be composed of a durable elastic compound of mineral or vegetable matter. The thickness shall not be less than one-half inch, the length shall be equal to the sidewalk width and the width shall not be less than the thickness of the sidewalk. Preformed filler of one-inch thickness shall be placed where the sidewalk joins with the curb or curb gutter.

(Ord. 70-5, passed 1-4-1971)

§ 93.06 DRIVEWAYS.

Where driveways are to be built across the sidewalk space they shall conform to the sidewalk grade and shall be six inches in depth of the same quality and material as specified for walks.

(Ord. 70-5, passed 1-4-1971)

§ 93.07 ALLEYS.

An alley crossing shall be constructed of concrete six inches thick, of the same finish and material as specified for walks and will be concave or straight as may be ordered by the Town Council.

(Ord. 70-5, passed 1-4-1971)

§ 93.08 COUNCIL RESOLUTION AND NOTICE.

Whenever in the opinion of the Town Council any new sidewalk shall be built or old sidewalk repaired in the town the Council shall pass a resolution affirming the fact and shall forthwith give notice to the abutting property owner or his or her agent. The notice is to be given either personally or by registered mail. The notice shall give the owner or agent 30 days from the date of the notice in which to

build or repair the sidewalk and in case the owner or agent shall fail to build or repair any sidewalk after notice is given, then the town shall proceed to build or repair the sidewalk and the costs, charges and expenses thereof shall be charged against the owner or the property and shall be collected in the same manner as assessments for street improvements. The adoption of the resolution by the Town Council shall be conclusive so far as the town is concerned of the necessity of the building or repairing of the sidewalk to render the same safe for passage thereof by pedestrians.

(Ord. 70-5, passed 1-4-1971)

§ 93.09 PROHIBITION.

No person shall store any dirt, trash, vehicles, personal property and or any other materials or objects on the sidewalks within the town and any dirt, trash, vehicles, personal property and or any other materials or objects shall be removed by the owner within 24 hours after being placed thereon. In case of construction and repair of sidewalk, all old materials must be removed within five days of the completion of work.

(Ord. 70-5, passed 1-4-1971; Ord. 2015-3, passed 5-4-2015)

§ 93.10 DUTY OF OWNER.

(A) It shall be the duty of the owner or occupant of all property adjacent to any sidewalk within the town to remove all snow and ice on the sidewalk within six hours after daylight and after the snow has ceased to fall.

(B) In addition to any penalty provided for herein if the owner or occupant fails to remove the snow or ice in the time set forth herein the town shall remove the snow or ice and the cost the removal shall be charged against the property and shall be collected in the same manner as taxes.

(Ord. 70-5, passed 1-4-1971)

§ 93.99 PENALTY.

Any person violating any provisions of this chapter shall upon conviction, be fined in any sum not less than \$5 nor more than \$50 and each day's continuance of the violation shall constitute a separate and distinct offense.

(Ord. 70-5, passed 1-4-1971)

CHAPTER 94: ALARM SYSTEMS

Section

94.01	Definitions
94.02	Registration of alarm business; agents to carry cards
94.03	Prohibited acts
94.04	Notice of violation
94.05	Hearing on excuse
94.99	Penalty

building, structure, facility or grounds, which when activated causes notification to be made directly to the Police Department or Fire Department. For the purposes of this chapter, an **ALARM SYSTEM** shall not include:

(1) An alarm installed on a motor vehicle;

(2) Alarm designed and operated so that no notification is given to the Police Department or Fire Department until after the occupants, an agent of the owner or lessee or an agent of an alarm system business have checked the alarm site and determined that the alarm was the possible or probable result of criminal activity or fire or explosion of the kind for which the **ALARM SYSTEM** was designed to give notice. The alarm shall be equipped to disconnect any exterior sounding alarm automatically within ten minutes of activation; or

(3) An alarm installed upon premises occupied by the United States, the state or any political subdivision thereof.

§ 94.01 DEFINITIONS.

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

ALARM AGENT. Any person who is employed by an alarm business either directly or indirectly, whose duties include selling, maintaining, leasing, servicing, repairing, altering, moving or installing on or in any building, structure or facility, any alarm system.

ALARM BUSINESS. Any individual, partnership, corporation or other entity who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm system or causes to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

ALARM SYSTEM. Any device used for the detection of an unauthorized entry or attempted entry into a building, structure or facility; alarm for fire, smoke, excess heat or explosion; or for alerting others of the commission of any unlawful act within a

FALSE ALARM. An alarm eliciting a police or fire response when the situation does not warrant a response. For the purposes of this chapter, this does not include alarms triggered by severe atmospheric conditions or other circumstances not reasonably under the control of the alarm user, installer or maintainer.

(Ord. 05-09, passed 2-7-2005)

§ 94.02 REGISTRATION OF ALARM BUSINESS; AGENTS TO CARRY CARDS.

(A) Prior to doing business within the town, an alarm system business shall register with the Town Clerk-Treasurer's office on a form designed by the town for that purpose. On the form, the business shall set forth:

(1) The full name and address of the alarm system business;

(2) The full name, business address and home address of the manager;

(3) A telephone number at which the Police Department and Fire Department can notify personnel of the business of a need for assistance at any time; and

(4) The name, address and date of birth of all alarm agents employed by the alarm system business.

(B) An alarm system business doing business shall have 30 days to register as required above, with a fee of \$150 per year.

(C) An alarm system business shall promptly notify the Town Clerk-Treasurer in writing of any change in the information contained in the registration form.

(D) Every alarm agent shall carry on his or her person at all times while engaged in the alarm system business an identification card, which shall be displayed to any police officer or Fire Department officer upon request.

(Ord. 05-09, passed 2-7-2005) Penalty, see § 94.99

§ 94.03 PROHIBITED ACTS.

It is a prohibited act punishable by fine as provided in this chapter to do any of the following acts:

(A) For a person who owns or controls property on which an alarm system is installed to issue, cause to be issued or permit the issuance of a false alarm;

(B) For a person who owns or controls property to install, maintain or permit to operate any alarm which automatically dials into any Police or Fire Department Public or emergency telephone line when an alarm is activated;

(C) For a person participating in the ownership or management of an alarm system business to do any business within the town without registering as required by this chapter.

(D) Each separate occurrence, under division (A) of this section, and each separate day, under divisions (B) and (C) of this section shall constitute a separate and distinct violation.

(Ord. 05-09, passed 2-7-2005) Penalty, see § 94.99

§ 94.04 NOTICE OF VIOLATION.

(A) The Town Marshal or designee may issue a notice of violation. Upon the issuance of the first three violations per calendar year of § 94.03(A) only for any specific property, any fine will be excused upon the violator submitting a written report to the Town Marshal on the cause of the alarm within two weeks of service of notice of violation. The report must show that steps have been taken to correct the problem and that the problem will not occur again in the future.

(B) The notice of violation shall state the name of the violator, the location of the violation, the date and time of the violation, the section of this chapter which was violated, the penalties for the violation and the violator's right to an appeal under any section hereof, if applicable.

(C) A notice of violation shall be served upon the violator at the violator's last known address. Service shall be complete upon the mailing (regardless of the receipt of the notice) or posting of the notice upon the property where the alarm is located.

(Ord. 05-09, passed 2-7-2005)

§ 94.05 HEARING ON EXCUSE.

Any person noticed for a violation of § 94.03(A) may petition the Town Council for a hearing to show that for some reason beyond the violator's control, the false alarm was activated. The petition for a hearing must state specifically the reasons beyond the violator's control for the activation of the alarm. The violator must also furnish the Town Council with the names and addresses of any and all witnesses as to the foregoing reasons. The petition must be filed within two weeks of service of the notice of violation. After the hearing, the Town Council, in its sole discretion, will determine whether the false alarm was activated for reasons beyond the control of the violator. If the Council does determine that it was beyond the control of the violator, the violation will be excused and no fine will be imposed.

(Ord. 05-09, passed 2-7-2005)

§ 94.99 PENALTY.

(A) The fine imposed for violation of any section of this chapter will be \$25 for the first three violations, \$50 for the next three succeeding violations, \$100 for the next three succeeding violations and \$200 for all subsequent violations. The fine structure is based on the number of violations per calendar year. The fines apply provided the fine is paid within two weeks of service of the notice of violation. Otherwise, the amount of the fine is doubled.

(B) The fine imposed will be due and payable to the Town Clerk-Treasurer's office within two weeks of the citation date. In the event that a hearing on excuse was held, the fine will be due within two weeks of the date that the decision was made.

(Ord. 05-09, passed 2-7-2005)

CHAPTER 95: FAIR HOUSING

Section

- 95.01 Policy statement
- 95.02 Definitions
- 95.03 Unlawful practice
- 95.04 Discrimination in the sale or rental of housing
- 95.05 Discrimination in residential real estate-related transactions
- 95.06 Discrimination in the provision of brokerage services
- 95.07 Interference, coercion or intimidation
- 95.08 Prevention of intimidation in fair housing cases
- 95.09 Exemption
- 95.10 Administration enforcement of chapter
- 95.99 Penalty

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the 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)

DISABILITY.

§ 95.01 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, being 42 U.S.C. §§ 2000e et seq., the Federal Housing and Community Development Act of 1974, as amended, being 42 U.S.C. §§ 5401 et seq., and I.C. 22-9.5-1 et seq.
(Ord. 97-8, passed 9-2-1997)

§ 95.02 DEFINITIONS.

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

- (1) With respect to a person:

- (a) A physical or mental impairment which substantially limits one or more of a person's major life activities;
- (b) A record of having an impairment;
- (c) Being regarded as having an impairment;
- (d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990; and
- (e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802; or does the term **DISABILITY** include an individual solely because that individual is a transvestite.
(I.C. 22-9.5-2-10(b) and 22-9.5-2-10(c))

DISCRIMINATORY HOUSING PRACTICE.

An act that is unlawful under §§ 95.04, 95.05, 95.06, 95.07 or 95.08 of this chapter 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, and 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. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 of age in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. Includes a single individual with the status of the **FAMILY** being further defined in the definition of familial status.
(I.C. 22-9.5-2-9)

PERSON. Includes 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 Title 11 of the United States Code, receivers and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.
(I.C. 22-9.5-2-13)
(Ord. 97-8, passed 9-2-1997)

§ 95.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, § 95.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 95.04 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 § 95.04 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 single-family houses at any one time; provided that in the sale of a single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one 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 single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the 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 broker, agent or salesman or person; or

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 95.04(C) of this chapter, but nothing

in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other 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 the 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. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 95.03 and except as exempted by §§ 95.03(B) and 95.09, it shall be unlawful:

(A) 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, familial status, disability or national origin;

(B) 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 therewith, because of race, color, religion, sex, familial status, disability or national origin;

(C) 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, disability, familial status or national origin, or an intention to make the preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce 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, disability, familial status or national origin; and/or

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability 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.

(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 or facilities in connection with the dwelling, because of a disability of:

(a) The person;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

(c) Any person associated with that person.

(3) For purpose of this division, discrimination includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the 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 modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the 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, 1988, a failure to design and construct those dwellings in a manner that:

1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the 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;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans with Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq., and the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117-1") suffices to satisfy the requirements of division (F)(3)(c)3 above.

(5) Nothing in this division 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 of whose tenancy would result in substantial physical damage to the property of others.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.05 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 a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, 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, disability or familial status.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

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 access, membership or participation on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.07 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 §§ 95.03, 95.04, 95.05 or 95.06.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, 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; or

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A) above: and

(2) Affording another person or class of persons opportunity or protection so as to participate. (Ord. 97-8, passed 9-2-1997)

§ 95.09 EXEMPTION.

(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 division (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 those persons, unless membership in 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 the lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

(a) 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 persons, as defined in the state or federal program;

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 97-8, passed 9-2-1997)

§ 95.10 ADMINISTRATION ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) hereof shall be vested in the chief executive officer of the town.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the articles of the Ordinance by complainants to the State Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Chief Elected Officer of the town shall refer all complaints to Commission as provided for under division (A) above to the 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 executive officer and the Commission to further those purposes.

(D) The chief executive officer of the town, or the chief executive officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting information.

(Ord. 97-8, passed 9-2-1997)

§ 95.99 PENALTY.

Any citizen because he or she is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in § 95.08, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for 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. 97-8, passed 9-2-1997)

CHAPTER 96: CONSTRUCTION OF DRIVEWAYS

Section

- 96.01 Definitions
- 96.02 Prohibition

§ 96.01 DEFINITIONS.

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

DRIVEWAY. Any area that is used by the owner of any property to move or drive any motor vehicle from a dedicated street in the town onto private property. The **DRIVEWAY** shall be that area from a dedicated street to any garage, carport or area used to park the motor vehicle or to load and unload passengers or driver from the motor vehicle.

HARD SURFACE. A surface constructed of concrete or asphalt of a depth to support motor vehicles or crushed stone or gravel of a depth of four inches. Any crushed stone or gravel is to be dirt free and be of individual stones or rock of at least one-half inch in width and depth.

OFF-STREET PARKING AREA. The area on private property that is required by any ordinance of the town, to be set aside for the parking of motor vehicles.

(Prior Code, § 84.01) (Ord. 83-2, passed 6-6-1983)

§ 96.02 PROHIBITION.

From and after the effective date of this chapter, it shall be unlawful for the owner of any property in the town, to construct or place on any private property any driveway or off-street parking area, or to use any part of private property for any driveway or off-street parking area where the use was not the normal use thereof prior to the effective date of this chapter, without constructing, placing or so using the driveway or off-street parking area with a hard surface.

(Prior Code, § 84.02) (Ord. 83-2, passed 6-6-1983)
Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. SOLICITATION**
- 111. BONDING OF CONTRACTORS**
- 112. LIQUOR RETAILERS**

CHAPTER 110: SOLICITATION

Section

110.01	Registration required	(1) The name, home address and local
110.02	Application; identification; fingerprints; bonds	address, if any, of the applicant.
110.03	License	(2) Physical description of the applicant,
110.04	Non-transferable	setting forth the applicant's age, height, weight, color
110.05	Exemption	of hair and eyes.
110.06	Conduct of solicitor	(3) The name and address of the person for
110.07	Public activity	whom or through whom orders are to be solicited or
		cleared.
110.99	Penalty	(4) The nature of goods, wares or
		merchandise form which orders are to be solicited.

§ 110.01 REGISTRATION REQUIRED.

It shall be unlawful for any person, or sponsoring agents, hawker, peddler or itinerant dealer in goods, wares, merchandise, services or subscriptions to any kind of publication, to offer the same for sale from door to door, office to office, or place to place, or on any street, sidewalk or highway within, or by telephone from and within the town, for either present or future delivery, without having first registered with the Town Marshal, and having his or her credentials stamped as provided in § 110.02 or § 110.03 below. Registration shall not constitute a permit to enter privately policed areas or private property. (Ord. 92-3, passed 11-2-1992)

§ 110.02 APPLICATION; IDENTIFICATION; FINGERPRINTS; BOND.

(A) An applicant for permission to solicit orders hereunder shall complete an application blank provided by the Town Marshal, which application blank shall contain the following information:

(1) The name, home address and local address, if any, of the applicant.

(2) Physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes.

(3) The name and address of the person for whom or through whom orders are to be solicited or cleared.

(4) The nature of goods, wares or merchandise form which orders are to be solicited.

(5) A statement as to whether the applicant has been convicted of any crime or misdemeanor, and if so, what and where.

(6) A statement as to the period during which the applicant intended to solicit orders.

(B) Applicants applying for a license from the Town Marshal shall post a \$1,000 bond in favor of the town and approved by the Town Marshal, and shall pay a license application fee of \$10.

(C) The applicant, at the time of executing the application blank, shall also submit identification satisfactory to the Town Marshal which shall contain a specimen of the applicant's signature and a complete set of fingerprints.

(Ord. 92-3, passed 11-2-1992)

§ 110.03 LICENSE.

Upon compliance by the applicant with the provisions of § 110.02, the Town Marshal shall thereupon issue a license to the applicant, which license shall set forth the name and address of the applicant and of his or her employer, if any, the nature of the goods, wares or merchandise form which orders are to be solicited and the period during which the applicant may solicit orders, which shall not exceed one month; provided, that the Town Marshal shall not be required to grant the permission to any person who shall have been convicted of any crime or misdemeanor involving moral turpitude.

(Ord. 92-3, passed 11-2-1992)

§ 110.04 NON-TRANSFERRABLE.

License so issued shall be non-transferrable and shall entitle the holder thereof, for the period indicated therein, unless revoked, to solicit orders within the town for the purchase of the goods, wares or merchandise specified in the license; provided, that holder shall have his or her license in his or her possession at all times while soliciting orders and shall exhibit the same at any time upon request by an officer of the town or prospective purchaser.

(Ord. 92-3, passed 11-2-1992)

§ 110.05 EXEMPTION.

Sections 110.01, 110.02, 110.03 and 110.04 hereof shall not apply to solicitors or sponsoring agents in the following conditions:

(A) Where the actual solicitor or solicitors are then enrolled, as a student in any grade one through 12 in any school located in Tippecanoe County, Indiana.

(B) Where the sponsoring agent or organization is an Indiana Not-For-Profit Organization or a recognized organization of any accredited school in Tippecanoe County, Indiana.

(C) Where the provisions of division (A) and (B) above are both met, the sponsoring agent or organization shall make a written request in duplicate to the Town Marshal of the town, setting forth the organization for whose benefit the solicitations will be made, the item or items to be sold, and the name of the individual solicitors who will make solicitation in the town. The Town Marshal when he or she is satisfied the conditions have been met, shall endorse his or her approval on the written request and return one copy to the sponsoring agent, who shall furnish each solicitor when soliciting in the town, which copy shall be exhibited at any time upon request of any officer of the town or prospective purchaser.

(D) No fee or bond shall be required of the sponsoring agent or its solicitors.

(Ord. 92-3, passed 11-2-1992)

§ 110.06 CONDUCT OF SOLICITOR.

Any person soliciting within the town, whether or not required to register, shall conform to the following regulations:

(A) The solicitor shall conduct himself or herself at all time in an orderly and lawful manner.

(B) The solicitor shall give a written receipt for all orders taken within the town, which receipt shall be signed by the solicitor and shall set forth a brief description of the goods, wares or merchandise ordered, the total purchase price thereof and the amount of the down payment received by the solicitor from the purchaser.

(Ord. 92-3, passed 11-2-1992)

§ 110.07 PUBLIC ACTIVITY.

This chapter shall not apply to any solicitations, where the Town Council by resolution has approved at public activity and at the location specified therein.

(Ord. 92-3, passed 11-2-1992)

§ 110.99 PENALTY.

Any person violating any of the provisions of this chapter or making any false statements of fact for the purpose of obtaining permission to solicit orders shall be guilty of an infraction and upon conviction shall be fined in the sum of \$500. Upon any registered person being convicted of any crime or misdemeanor or infraction under this chapter or involving moral turpitude, the license of the person shall be delivered to the Town Marshal and the license cancelled, and the person shall not thereafter solicit orders in the town without re-registering.

(Ord. 92-3, passed 11-2-1992)

CHAPTER 111: BONDING OF CONTRACTORS

Section

- 111.01 Bond required
- 111.02 Trades requiring bonding
- 111.03 Permits
- 111.04 Use of bond
- 111.05 Reinstatement and termination

account of negligence, want of skill or failure to comply with the various building codes and county ordinances then in effect in the county. The bond must be submitted to and approved by the County Building Commissioner.
(Prior Code, § 85.01) (Ord. 97-5, passed 7-7-1997)

§ 111.01 BOND REQUIRED.

(A) No person, sole proprietor, partnership, corporation or limited liability company not already under bond to the town shall contract to perform any of the trades listed in § 112.02 in or upon any building in the town, unless they shall first give bond to the Town Council, with one or more sureties, in the penal sum of \$10,000 (each trade), conditioned that they will in good faith perform all things required of them under the provisions of the various ordinances and building codes then in effect, and conditioned further that they will pay all damages and save the town harmless on account of negligence, want of skill or failure to comply with the various building codes and county ordinances then in effect in the town. The bond must be submitted to and approved by the County Building Commissioner.

(B) No person, sole proprietor, partnership, corporation or limited liability company not already under bond to the town shall do business as a general contractor if the town, unless they shall first give bond to the Town Council, with one or more sureties, in the penal sum of \$25,000, conditioned that they will in good faith perform all things required of them under the provisions of the various ordinances and building codes then in effect, and conditioned further that they will pay all damages and save the town harmless on

§ 111.02 TRADES REQUIRING BONDING.

The following trades shall supply and a compliance bond as described in § 111.01:

- (A) Brick and block mason;
- (B) Building demolition;
- (C) Building movers;
- (D) Carpentry;
- (E) Concrete;
- (F) Drywall, lathing and plastering;
- (G) Electrical;
- (H) Fire protection equipment installation;
- (I) Glazing;
- (J) Heating and air conditioning;
- (K) Insulation;
- (L) Plumbing;
- (M) Painting;

(N) Roofing;

enforcement or compliance, the contractor or subcontractor must replenish the bond in the full amount and maintain it on an annual basis.

(O) Siding;

(P) Sign installation;

(B) No bond shall be terminated without written notice to the town 30 days before the termination date. (Prior Code, § 85.05) (Ord. 97-5, passed 7-7-1997)

(Q) Structural iron;

(R) Swimming pool installation; and

(S) Any other construction trade.

(Prior Code, § 85.02) (Ord. 97-5, passed 7-7-1997)

§ 111.03 PERMITS.

No permit to perform the trades listed in § 111.02 shall be issued unless a compliance bond is on file with the town and the County Building Commission.

(Prior Code, § 85.03) (Ord. 97-5, passed 7-7-1997)

Penalty, see § 10.99

§ 111.04 USE OF BOND.

(A) Should the town be required to expend its funds in enforcing its ordinances pertaining to a permit against any contractor or subcontractor whose compliance bond it holds, the town may seek reimbursement against that bond for its cost of enforcement.

(B) Should the town be required to expend its funds to repair damages caused by noncompliance with its ordinances pertaining to a permit against any contractor or subcontractor whose compliance bond it holds, the town may seek reimbursement against the bond.

(Prior Code, § 85.04) (Ord. 97-5, passed 7-7-1997)

§ 111.05 REINSTATEMENT AND TERMINATION.

(A) Compliance bonds shall be maintained in the full amount required by this chapter. If the bond, or a portion of it is used to reimburse the town for costs of

CHAPTER 112: LIQUOR RETAILERS

Section

112.01 Town consent to issue permits

112.02 Terms of permit

§ 112.01 TOWN CONSENT TO ISSUE PERMITS.

The consent of the town by its Town Council be and the same is hereby given and granted unto the proper legal authorities of the state, to issue liquor retailer's permit for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the town, all agreeable to the provisions of I.C. 7.1-3-9, as added by Acts 1973, Pub. L. No. 55, § 1, p. 290.
(Ord. 83-8, passed - -)

§ 112.02 TERMS OF PERMIT.

This enabling chapter and any liquor retailer's permit issued hereafter contain no conditions, exceptions or limitations and are subject to the terms of I.C. 7.1-3-9 and the proper legal authorities of the state under the alcoholic beverage laws of the state.
(Ord. 83-8, passed - -)

TITLE XIII: GENERAL OFFENSES

Chapter

130. WEAPONS

131. INTOXICATING SUBSTANCES

CHAPTER 130: WEAPONS

Section

Firearms on Town Property

- 130.01 Prohibition
- 130.02 Signs required
- 130.03 Exemptions

Discharge of Firearms, Guns, Pistols, Sling Shots and Other Mechanical Devices

- 130.15 Prohibition of firearms
- 130.16 Throwing stones, material and other
missiles
- 130.17 Exemptions
- 130.99 Penalty

FIREARMS ON TOWN PROPERTY

§ 130.01 PROHIBITION.

No person shall carry a concealed firearm in or on any property, park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to the buildings, upon which appropriate signage has been placed indicating that concealed firearms are prohibited therein.

Penalty, see § 130.99

§ 130.02 SIGNS REQUIRED.

Signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premises or park. The town shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premises or park.

§ 130.03 EXEMPTIONS.

(A) The prohibitions set forth in this subchapter shall not apply to persons who are exempt from concealed weapons prohibitions under state or federal law or to any duly authorized local, state or federal law enforcement officer while on duty.

(B) The prohibitions set forth in this chapter shall not apply to highways or public highways owned or administered by the town.

DISCHARGE OF FIREARMS, GUNS, PISTOLS, SLING SHOTS AND OTHER MECHANICAL DEVICES

§ 130.15 PROHIBITION OF FIREARMS.

It shall be unlawful for any person to shoot fire or discharge or cause to shoot, fire or discharge any firearms of any description including, but not limited

to any gun, air gun, air pistol, beebee gun or other mechanical devices which shoot or throw shots, bullets, stones, lead balls, BBs or other missiles within the town.

(Prior Code, § 91.01) (Ord. 73-6, passed - -1973)
Penalty, see § 130.99

§ 130.16 THROWING STONES, MATERIAL AND OTHER MISSILES.

It shall be unlawful for any person to throw, propel or shoot any stone, material or other missile by means of any sling shots, bow or other device within the town.

(Prior Code, § 91.02) (Ord. 73-6, passed - -1973)
Penalty, see § 130.99

§ 130.17 EXEMPTIONS.

This subchapter shall not prohibit any Marshal, animal warden, Sheriff or other police officer from discharging firearms in performance of his or her official duty nor prohibit any citizen a firearm when lawfully defending his or her person, property or family from physical injury from anything.

(Prior Code, § 91.03) (Ord. 73-6, passed - -1973)

§ 130.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Discharge of firearms.* The violation of any of the provisions of §§ 130.15 through 130.17 shall be punished by a fine not exceeding \$100 or imprisonment not exceeding 30 days or both.

(Ord. 73-6, passed - -1973)

CHAPTER 131: INTOXICATING SUBSTANCES

Section

131.01 Prohibited

§ 131.01 PROHIBITED.

(A) It is hereby declared to be unlawful for any person to sell, publicly display for sale or attempt to sell, give or barter any herbal based or chemical substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N”Ice, Pulse, Solitude or Voodoo or any other herbal or chemical based substance containing any of the following within the city limits of the town to wit:

(1) Salviadinorum or salvinourm A: all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, these seeds thereof any extract from any part of the plant, and every compound, manufacture, salts derivative, mixture or preparation of the plan, its seeds or extracts.

(2) (6A, 10Ar)-9-(hydroxymethyl)-6, 6dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210;

(3) 1-Pentyl-3-(1-naphtholyl)indole - some trade or other names: JWH-018/spice;

(4) 1-Butyl-3-(1-naphtholyl)indole - some trade or other names: JWH-073;

(5) 1-(3-[trifluoromethylphenyl]) piperazine - some trade or other names: TFMPP;

(6) Cannibicyclohexanol, a substance also known as 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol:

(7) CP-47, 497, a substance also known as 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol;

(8) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone;

(9) Or any similar analogs.

(B) If any of the aforementioned substances are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

(C) It is not an offense under division (A) above, if the violation:

(1) Arises out of actions taken at the direction of an authorized agent of the town to enforce and ensure compliance with this law prohibiting the sale of the aforementioned substance.

(2) Arises out of or in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(D) This section does not apply to any person who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe the act.

(E) Any person found to be in violation of this section will be assessed a fine of up to \$250. Each day a violation occurs will constitute a separate offense.
(Ord. 10-15, passed 10-11-2010)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. SUBDIVISION REGULATIONS**
- 152. ZONING REGULATIONS**

CHAPTER 150: BUILDING REGULATIONS

Section

Building Code

- 150.001 Title
- 150.002 Purpose
- 150.003 Authority
- 150.004 Scope
- 150.005 Adoption of regulations by reference
- 150.006 Application for permits
- 150.007 Permit required
- 150.008 Other regulations
- 150.009 Fees other than electrical permits
- 150.010 Review of application
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- 150.012 Entry
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Building Site Procedure

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- 150.032 Streets and alleys
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- 150.050 Easement requirements
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- 150.070 Authority
- 150.071 State law adopted by reference
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- 150.075 Definitions
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- 150.077 Unsafe Building Fund
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BUILDING CODE

§ 150.001 TITLE.

This subchapter and all ordinances supplemental or amendatory hereto shall be known as the “Building Code of Dayton, Indiana,” may be cited as such, and will be referred to herein as “this code.”
(Prior Code, § 80.01) (Ord. 95-16, passed 12-28-1995)

§ 150.002 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, limb, health, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and structures.

(Prior Code, § 80.02) (Ord. 95-16, passed 12-28-1995)

§ 150.003 AUTHORITY.

(A) The County Building Commissioner is hereby authorized and directed to administer and enforce all of the provision of this code. Whenever in the building regulations, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Town Council, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no provision shall be construed as giving any officer discretionary powers as to what regulation, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(B) The Building Commissioner, after having been designated as the officer of a single agency to administer and enforce building regulation, shall be authorized to issue building permits, collect permit fees, perform inspections, order correction of violations of building regulations and authorize occupancy of buildings and structures situated within the incorporated areas of the town.

(C) The provisions of this section are subject to the issuance of an improvement location permit by the administrative officer of the town pursuant to the Unified Zoning Ordinance.

(Prior Code, § 80.03) (Ord. 95-16, passed 12-28-1995)

§ 150.004 SCOPE.

The provisions of this code apply to the construction, demolition, alterations, structural repair, use, occupancy, maintenance and additions to all buildings and structures other than fences, mobile structures and/or industrialized buildings certified under I.C. 22-15-4 in the town, except storage buildings of 120 square feet or less and not construed on a masonry or concrete foundation.

(Prior Code, § 80.04) (Ord. 95-16, passed 12-28-1995)

§ 150.005 ADOPTION OF REGULATIONS BY REFERENCE.

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of I.A.C. Title 675 are hereby incorporated by reference in this subchapter and shall include later amendments to those articles as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein:

(1) Articles 13—Building Codes:

- (a) Fire and Building Safety Standards;
- (b) Indiana Building Code;
- (c) Indiana Building Code Standards;

and

(d) Indiana Handicapped Accessibility Code.

(2) Article 14—One- and Two-Family Dwelling Code (675 I.A.C. 14-4):

(a) Council of American Building Officials One- and Two-Family Dwelling Code;

(b) CABO One- and Two-Family Dwelling Code; Amendments;

(c) Standard for Permanent Installation of Manufactured Homes; and

(d) Section R-309.6—Ground Covering: The entire ground surface of the under-floor space shall be covered with a vapor barrier having a maximum permeability rating of one perm.

(3) Article 16—Plumbing Codes: Indiana Plumbing Code;

(4) Article 17—Electrical Code:

(a) Indiana Electrical Code, including Article 547 (Agricultural Building); and

(b) Safety Code for Health Care Facilities.

(5) Article 18—Mechanical Codes: Indiana Mechanical Code;

(6) Article 19—Energy Conservation Codes:

(a) Indiana Energy Conservation; and

(b) Modifications to the Model Energy Code.

(7) Article 20—Swimming Pool Code: Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes and standards are on file in the office of Building Commissioner.

(Prior Code, § 80.05) (Ord. 95-16, passed 12-28-1995)

§ 150.006 APPLICATION FOR PERMITS.

No permits shall be issued for the foregoing purposes, unless the application for a permit is accompanied by plans and specifications showing the work to be done. All plans for building construction under the authority of the Fire Prevention and

Building Safety Commission of the state must also be filed with the State Building Commissioner if a state permit is required. No local permits shall be issued hereunder until a copy of a design release from the State Building Commissioner is received by the County Building Commissioner if a design release is required. No permit shall be issued until an improvement location permit has been approved in writing by the administrative officer of the town pursuant to the Unified Zoning Ordinance and Unified Subdivision Ordinance.

(Prior Code, § 80.06) (Ord. 95-16, passed 12-28-1995)

§ 150.007 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, demolition, alteration or repair of any building or structure, using forms furnished by the Building Commissioner. All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid to the county.

(A) A building permit expires and comes void if:

(1) The work authorized by the permit is not started within one year from the date of issuance;

(2) The work authorized by the permit is suspended or abandoned for six months; and/or

(3) The work authorized by the permit is not completed within two years from the date of issuance.

(B) The Building Commissioner may grant extensions to these time limitations provided that the extension request is submitted prior to the expiration date of the permit.

(Prior Code, § 80.07) (Ord. 95-16, passed 12-28-1995)

§ 150.008 OTHER REGULATIONS.

All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, including, without limitation, the

Unified Zoning Ordinance and Unified Subdivision Ordinance, and in addition to the fees for permits herein after provided for, there shall be paid the fees prescribed in the ordinances.

(Prior Code, § 80.08) (Ord. 95-16, passed 12-28-1995)

§ 150.009 FEES OTHER THAN ELECTRICAL PERMITS.

(A) One- and two-family dwelling fees are based on the square footage of the buildings with the exterior measurements used in determining the building area. The fees are \$0.11 per square foot up to 2,000 square feet, and then \$0.09 per square foot for each additional square foot over 2,000 (this includes attached garages) and \$0.06 per square foot for basements.

(B) Detached garages and livestock confinement buildings fees are based on square footage with the exterior measurements used in determining the building area, the fee is \$0.06 per square foot or \$25, whichever is greater.

(C) Pole structure fees are based on the square footage of the buildings with the exterior measurements used in determining the building area. The fee is \$0.025 per square foot or \$25, whichever is greater.

(D) (1) All other buildings not listed above (divisions (A) through (C)) will continue to have their fees determined by the following system; \$25 for the first \$1,000 of estimated value, then \$2 for each additional \$1,000 of estimated value up to \$1,000,000, then \$0.10 for each additional \$1,000 of estimated value over \$1,000,000.

(2) This group of buildings includes all Class 2 structures, grain bins, yard bins, carports, room additions and other miscellaneous structures.

(E) Electrical permit fees are \$35 for electrical services up to and including 200 amperes and \$60 for electrical services over 200 amperes.

(F) A reinspection fee of \$20 will be charged for the third and subsequent inspections on a project for the same violation. Reinspection fees must be paid before subsequent inspections will be made. If the inspections are on an electrical service, the fee shall be paid before the service will be approved for connection.

(G) A surcharge of \$50 will be added to permit fees on buildings where construction is started without first obtaining a building permit.

(Prior Code, § 80.09) (Ord. 95-16, passed 12-28-1995)

§ 150.010 REVIEW OF APPLICATION.

Prior to the issuance of any building permit hereunder, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with provisions of this subchapter;

(B) Provide the application to administrative officer for zoning compliance review and issuance of an improvement location permit;

(C) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will comply with the Unified Zoning Ordinance of the town; and

(D) An application for a building permit becomes null and void if the applicant does not secure the permit within 90 days after its approval.

(Prior Code, § 80.10) (Ord. 95-16, passed 12-28-1995)

§ 150.011 INSPECTIONS.

After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to make, inspections of the work being

done under the permit as are necessary to ensure full compliance with the provisions of this subchapter and the terms of the permit.

(Prior Code, § 80.11) (Ord. 95-16, passed 12-28-1995)

§ 150.012 ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him or her by this code.

(Prior Code, § 80.12) (Ord. 95-16, passed 12-28-1995)

§ 150.013 STOP ORDER.

Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(Prior Code, § 80.13) (Ord. 95-16, passed 12-28-1995)

§ 150.014 CERTIFICATE OF OCCUPANCY.

No final approval of construction for any building or structure erected, altered or repaired after the adoption of this subchapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this subchapter and the Unified Zoning Ordinance with the town.

(Prior Code, § 80.14) (Ord. 95-16, passed 12-28-1995)

§ 150.015 STANDARDS.

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner

according to accepted standards and practices in the trade.

(Prior Code, § 80.15) (Ord. 95-16, passed 12-28-1995)

§ 150.016 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(Prior Code, § 80.16) (Ord. 95-16, passed 12-28-1995)

§ 150.017 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision first through the Town Council and then to the County Board of Commissioners and then to the Fire Prevention and Building Safety Commission of the state in accordance with the provisions of I.C. 22-13-2-7 or I.C. 4-21.5-3-7, as applicable.

(Prior Code, § 80.17) (Ord. 95-16, passed 12-28-1995)

§ 150.018 REMEDIES.

The Building Commissioner shall in the name of the Town Council bring actions in the County Circuit Court, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner, and any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this subchapter.

(Prior Code, § 80.18) (Ord. 95-16, passed 12-28-1995)

§ 150.019 BUILDING PERMITS.

(A) No building permit shall be issued for the construction, extension, remodeling, alteration or repair of any proposed or existing building in the town, except single-family dwelling houses in approved subdivisions, until the plans for the construction, extension, remodeling, alteration or repair have been approved in writing by the County Drainage Board.

(B) No building permit shall be issued until the plans have been found to be in compliance with the Unified Zoning Ordinance and Unified Subdivision Ordinance of the town and an improvement location permit has been issued by the administrative officer of the town.

(Prior Code, § 80.20) (Ord. 95-16, passed 12-28-1995) Penalty, see § 150.999

BUILDING SITE PROCEDURE**§ 150.030 DEFINITIONS.**

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

SOLIDS. Stone, sand, dirt, gravel, mud, broken dishes, bottles, pottery, old iron, junk metals, ashes, cinders and all other substances of a permanent nature and as such are not subject to speedy decay or the generation of noisome and offensive odors, including construction debris.

WASTES. Broken or cut down trees, tree leaves, old rags, tin cans, paper, sweepings, wood or paper boxes, crates, sacks and all other debris and accumulation of waste from dwellings and business houses and the yards and grounds thereof as are not within the definition of garbage or solids as herein contained and are not susceptible of speedy packing into solid fillings when gathered and dumped on the ground in the work of filling and leveling of ground surfaces.

(Ord. 02-12, passed 11-4-2002)

§ 150.031 ON-SITE.

A dumpster may be used but is not required. Trash must be contained either in an enclosure constructed of posts and type of temporary barrier fence, within the structure or garage that is being built. The dumpster or trash enclosure shall be visible on-site within ten days after the building permit is issued. No metal dumpsters are to be placed on streets. All trash must be disposed of regularly. No open piles of construction debris will be allowed.

(Ord. 02-12, passed 11-4-2002) Penalty, see § 150.999

§ 150.032 STREETS AND ALLEYS.

It is unlawful for any person to throw or deposit any ashes, dirt, chips, wood, garbage, waste or solids in any street, alley or other public place or to drive or haul the wastes or solids so as to scatter about or litter them on any street, alley, gutter or adjoining premises of the town or into any stream or watercourse, or ditch running into, through or adjacent to the town or any part of the town.

(Ord. 02-12, passed 11-4-2002) Penalty, see § 150.999

§ 150.033 ENFORCEMENT.

(A) The town will contact the builder indicated on the building permit if there is a trash problem at a building site or mud or gravel in the street next to the building site. This contact will either be over the phone or as a warning letter.

(B) A site should be reasonably clean within 48 hours unless the weather interferes.

(C) If the problem is not remedied in a reasonable amount of time, a stop work order will be issued to the subcontractors on-site and followed up by a phone call to the builder from the Town Clerk-Treasurer.

(D) The builder is responsible for making arrangements for a site re-inspection within 48 hours of the stop work order. If the site is in compliance, a phone call will be made to the builder to proceed with construction. If the site is not in compliance, the stop work order will continue to be enforced, along with penalties.

(Ord. 02-12, passed 11-4-2002)

***UNIFORM CONSTRUCTION AND UTILITY
SERVICE REQUIREMENTS***

§ 150.045 OBJECTIVES.

The objectives of this subchapter are:

(A) To guide the future growth and development of the town and to ensure that public facilities and services are available and will have sufficient capacity to serve proposed development areas;

(B) To establish policy and procedures relating to the annexation of property to the town and the extension of utilities beyond the corporate limits of the town;

(C) To set forth guidelines and standards for the design, installation and inspection of public facilities to serve proposed development areas;

(D) To establish procedures for submittal and review of proposed development plans including review fees and submittal requirements; and

(E) To ensure proposed development for the town is consistent with the policies and procedures of adjoining jurisdictional areas.

(Ord. 99-6, passed 6-7-1999)

**§ 150.046 ANNEXATION AND UTILITY
EXTENSION POLICY.**

(A) Where town utilities are extended beyond the current town corporation limits and prior to rendering water or sewer utility service to properties outside the current town corporate limits, the landowner of the property to be served shall agree to the following:

(1) Jointly cooperate with the town to annex the property into the town corporate limits; or

(2) If the property cannot be legally annexed to the town, to enter into an agreement wherein the landowner and his or her successors in interest waive their right to object to annexation. The agreement is to be recorded, and as such will constitute notice to and be binding upon successors in interest to the real estate described in the agreement.

(B) All potential utility customers shall enter into an agreement with the town (utility service agreement). This agreement describes the terms and conditions for provision of utility service (water and sewer) to a proposed residential, commercial or industrial development including any fees and terms of fee payment.

(C) Extension of water and sewer lines from the point of connection into the existing municipal system to and throughout the proposed development shall be the responsibility of the owner/developer of the subdivision or addition, and shall be at his or her sole expense. The materials, design, layout and construction of the proposed extension of utilities shall be subject to the acceptance and approval of the Town Council or its authorized representative.

(D) In order to facilitate future expansion or development, the town may require the developer to oversize utility lines or extend utilities through the proposed development. Costs for oversizing and/or extension beyond the area to be served by the developer will be the responsibility of the town.

(Ord. 99-6, passed 6-7-1999)

§ 150.047 COMPLIANCE.

(A) In addition to the requirements of this subchapter, compliance with the requirements set forth in the Zoning, Subdivision and Drainage Ordinances of the county; the sewer and water ordinances of the town; and any other applicable ordinances with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, construction, inspections, appeals and similar matters, and compliance with applicable state statutes and regulations shall be required.

(B) No sewer or water permits shall be issued for development in the town or proposed annexation or other service areas (except single lot, single-family residences) until the plans for the construction, extension, remodeling, alteration or repair have been approved in writing by the Town Council or its authorized representative. The process for obtaining plan approval is outlined in § 150.048.

(C) No sewer or water service shall be provided until all construction is complete and inspected to the satisfaction of the Town Council or its authorized representative, and as-built information is submitted to and approved by the Town Council or its authorized representative.

(D) No utility service, water or sewer will be provided until all technical and monetary matters have been satisfied.

(E) Payment of all required plan review fees and utility fees shall be made to the town prior to the issuance of any utility connection (tap) permits.

(F) Notification of the town utility personnel is required prior to initiation of construction activity and/or to connection the system.
(Ord. 99-6, passed 6-7-1999)

§ 150.048 PLAN SUBMITTAL AND REVIEW PROCEDURES.

(A) *Development guide.* A developer and/or owner is required to purchase a development guide which includes: a plan submittal checklist, plan review checklist, development procedure checklist, all applicable ordinances, *Typical Construction Guidelines and Details*, inspection checklist and all other applicable development requirements and information of the town.

(B) *Preliminary/conceptual plan submittal.*

(1) Upon review of the town's requirements, the developer/owner shall provide the Town Council or its authorized representative a preliminary/conceptual plan of the proposed development.

(2) Submittal requirements for the preliminary/conceptual plan shall be as outlined in the development guide.

(3) The developer shall pay a plan review fee at the time of a submittal of preliminary/conceptual plan. Review fees are outlined in § 150.055.

(4) The Town Council or its authorized representative shall review the preliminary/conceptual plan and provide corrective comments, approval or denial of the preliminary/conceptual plan. The owner/developer may be required to attend a meeting with the Town Council to answer questions or provide additional information concerning the proposed development.

(C) *Utility service agreement.* Following preliminary/conceptual plan approval, the developer/owner shall enter into a utility service agreement with the town. This agreement describes the terms and conditions for provision of utility service (water and sewer).

(D) *Detailed construction plan submittal.*

(1) The developer/owner shall provide the Town Council or its authorized representative a complete set of construction plans signed and sealed by a professional engineer licensed in the state.

(2) The requirements for construction plan preparation and submittal are as outlined in the development guide.

(3) The Town Council or its authorized representative shall review the detailed construction plans for compliance with the town's requirements and conformance with the conceptual plan approval. The developer/owner shall revise construction drawings as required by the Town Council or its authorized representative.

(4) Prior to obtaining final written approval of the detailed construction drawings, the developer/owner shall pay all required review fees as outlined in § 150.055 and/or utility fees as may be outlined in the utility service agreement.

(5) Once all technical and monetary issues are satisfied, the town shall give written approval of the final detailed construction plans.

(6) Plan approval is conditioned upon receiving County Drainage Board approval for development outside of the town limits. The town reserves the right to review the drainage and storm sewer plan and require changes as necessary to fit within the town's storm sewer system. It is the intent of the town to coordinate drainage plan review with the County Engineer and County Surveyor.
(Ord. 99-6, passed 6-7-1999)

§ 150.049 CONSTRUCTION AND INSPECTION PROCEDURES.

(A) Upon receipt of final construction plan approval the developer/owner shall schedule a pre-construction conference with the town utility personnel. The purpose of the conference is to discuss

timetables for installation of utilities, start dates for IDEM permit(s), coordination requirements with any other agencies and utilities and the like.

(B) The contractor shall provide the town with the names and telephone numbers of contact person(s) and emergency contact person(s) for applicable phases of construction.

(C) The town's authorized representative shall perform periodic inspections of the construction site and discuss any concerns with the contact person or his or her on-site representative.

(D) All testing and inspection procedures are to be as outlined in the *Typical Construction Guidelines and Details*.

(E) The contractor shall notify the town utility personnel for inspection when each section of watermain is ready for testing. It is to the contractor's benefit to have the construction approved prior to paving.

(F) After sanitary and storm drainage systems are installed, the contractor shall notify the town utility personnel. Inspection of sewers shall begin within one week after notification of the utility personnel. However, air and mandrel tests will not be performed before 45 days have elapsed from the date of completion of backfill of the system (to be verified by the utility personnel). It is to the contractor's benefit to notify the utility personnel of backfill completion and to have the construction approved prior to paving.

(G) Pavement and stormwater drainage facilities shall be inspected in accordance with the practices and procedure of the County Engineer and County Surveyor, unless more stringent requirements are established in the town's *Typical Construction Guidelines and Details*.

(H) The town utility personnel or his or her authorized representative shall notify the contractor in writing of any deficiencies identified during inspection. The contractor shall correct all deficiencies and shall notify the utility personnel for a subsequent reinspection of the work.

(I) All fees for inspection shall be borne by the town. Inspection fees are outlined in § 150.055.

(J) Detailed construction inspection procedures and checklists are provided in the development guide.

(K) A final inspection shall be performed by the utility personnel or his or her authorized representative.

(Ord. 99-6, passed 6-7-1999)

§ 150.050 EASEMENT REQUIREMENTS.

(A) All sewers and watermain shall be located within easements outside of the public road right-of-way. The easement shall be of adequate size and location for access, maintenance and/or replacement of the utility. All easements shall be dedicated to the town. The town shall approve easement location and size as part of the plan approval process.

(B) All storm drainage easement requirements of the county shall be met.

(Ord. 99-6, passed 6-7-1999)

§ 150.051 TIME LIMITS FOR CONSTRUCTION PLAN APPROVAL.

Construction plan approval shall be withdrawn in writing by the town if construction has not commenced within 365 days of obtaining approval. The town, at its discretion and after the receipt of written request of the developer/owner may grant additional extensions of the plan approval in six-month increments. Should the plan approval expire, the developer will be required to re-submit the construction plans for approval.

(Ord. 99-6, passed 6-7-1999)

§ 150.052 CHANGE IN PLANS.

(A) The developer/owner shall be required to discuss and submit any plan changes to the town for its review and approval prior to making any changes to the approved construction plans.

(B) All plan changes shall be reflected on the approved revised plans and the as-built drawings.

(Ord. 99-6, passed 6-7-1999)

§ 150.053 AS-BUILT CERTIFICATIONS.

(A) The developer/owner shall submit three sets of complete as-built plans to the town prior to requesting a final inspection.

(B) An as-built checklist is provided in the development guide.

(C) A certification statement signed by the design engineer shall appear on the as-built plans stating that the completed work substantially complies with the final approved plans.

(Ord. 99-6, passed 6-7-1999)

§ 150.054 TOWN ACCEPTANCE OF UTILITIES.

(A) When all work is completed and as-built plans are approved by the town personnel, the developer/owner will be notified that a request can be made for town acceptance of utilities.

(B) The developer/owner submits to the Town Council the following information:

(1) Engineer's as-built certification that the work was completed substantially in accordance with the approved plans;

(2) Three-year letter of credit or maintenance bond for 10% of the amount of work completed and requested for acceptance; and

(3) Request for town acceptance of the completed public improvements.

(C) Upon acceptance of the public improvements by the Town Council, the developer/owner, lot owner or contractor may apply for sewer and water permits.

(D) The town will not accept utilities until all fees have been paid.
(Ord. 99-6, passed 6-7-1999)

§ 150.055 SUBMITTAL, REVIEW AND INSPECTION FEES.

The town requires the following fees be paid by the owner/developer.

(A) Development guide is \$50.

(B) Preliminary/conceptual submittal fee is \$2,000. This fee will be used to pay for the review of the submittal. If the preliminary/conceptual plan is approved by the town and the owner/developer proceeds with the project, the unused balance of the fee will be returned to the owner/developer. Should preliminary/conceptual review exceed \$2,000, the owner/developer will be responsible for making up the difference between the \$2,000 submitted and the actual review costs prior to approval of the preliminary/conceptual plan.

(C) Final construction plan review fee is \$3,000. If the final review fee is less than \$3,000, the unused balance will be returned to the owner/developer. Should final plan review fees exceed \$3,000, the owner/developer will be responsible for making up the difference between the \$3,000 submitted and the actual review costs prior to the final approval of the construction plans.

(D) All costs of the inspection shall be the responsibility of the owner/developer. Any costs for re-inspection due to deficiencies and inadequacies in the construction will also be the responsibility of the owner/developer. Inspection costs will be billed to the

owner/developer monthly and shall be due within 30 days of receipt of the invoice. The town staff or an independent entity selected by the town will conduct the inspection requirements.(Ord. 99-6, passed 6-7-1999; Ord. 2014-5, passed 5-5-2014)

§ 150.056 CONFLICTING PROVISIONS.

(A) The provisions of this subchapter shall be deemed as additional requirements to minimum standards required by other ordinances of the town and/or the county.

(B) In the case of conflicting requirements, the most restrictive shall apply.
(Ord. 99-6, passed 6-7-1999)

UNSAFE BUILDINGS

§ 150.070 AUTHORITY.

Under the provisions of I.C. 36-7-9, there is hereby established the town unsafe building subchapter.
(Prior Code, § 81.01) (Ord. 95-15, passed 12-28-1995)

§ 150.071 STATE LAW ADOPTED BY REFERENCE.

(A) I.C. 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference in the town unsafe building subchapter. All proceedings within the incorporated areas of the town for the inspection, repair and removal of unsafe buildings shall be governed by the applicable state law and the provisions of this subchapter.

(B) In the event the provisions of this subchapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(Prior Code, § 81.01) (Ord. 95-15, passed 12-28-1995)

§ 150.072 NUISANCE DECLARED.

All buildings or portions thereof within the incorporated areas of the town which are determined after inspection by the Building Commissioner of the county to be unsafe as defined in this subchapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

(Prior Code, § 81.02) (Ord. 95-15, passed 12-28-1995)

§ 150.073 COUNTY BUILDING COMMISSIONER.

The County Building Commissioner, as chief administrative office, shall be authorized to administer and to proceed under the provisions of the applicable state law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(Prior Code, § 81.03) (Ord. 95-15, passed 12-28-1995)

§ 150.074 CONFLICTING PROVISIONS.

Wherever in the building regulations of the state, county or the town unsafe building subchapter, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the county, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no provisions shall be construed as giving any officer discretionary powers as to what

regulations or standards shall be, power to require conditions not prescribed by ordinance or to enforce ordinance provisions in an arbitrary or discretionary manner.

(Ord. 95-15, passed 12-28-1995)

§ 150.075 DEFINITIONS.

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

SUBSTANTIAL PROPERTY INTEREST. As set forth in I.C. 36-7-9-2 and is hereby incorporated by reference herein as if copied in full.

UNSAFE BUILDING.

(1) The description of an unsafe building contained in I.C. 36-7-9-4 hereby supplemented to provide minimum standards for building condition or maintenance in the town by adding the following definition.

(2) Any building or structure which has any or all of the conditions or defects hereinafter described, provided that the conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered:

(a) Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(c) 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 new buildings of similar structure, purpose or location;

(d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose and location;

(e) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, or purpose or location without exceeding the working stresses permitted for the buildings;

(g) Whenever any portion thereof has cracked, warped, buckled or settled to an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(h) Whenever the building or structure, or any portion thereof, because of:

1. Dilapidation, deterioration or decay;
2. Faulty construction;
3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;
4. The deterioration, decay or inadequacy of its foundation; or
5. Any other cause, is likely to partially or completely collapse.

(i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(j) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(k) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of this supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(l) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become:

1. An attractive nuisance to children; or
2. Freely accessible to person or committing unlawful acts.

(m) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the town, or of any law or ordinance of the state or the county or the Unified Zoning Ordinance of the town relating to the condition, location or structure of building;

(n) Whenever any building or structure which, whether or not enacted in accordance with all applicable laws and ordinances has in any nonsupporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the:

1. Strength;

2. Fire-resisting qualities or characteristics; or

3. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(o) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Office of the county (health official) to be unsanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease;

(p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the appropriate fire official and/or State Fire Marshal to be a fire hazard;

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute the building or portion thereof an attractive nuisance or hazard to the public; and

(r) Notwithstanding the foregoing, a building may be inventoried for a period of 12 months upon permit issued by the Building Commissioner after submission by applicant of a plan for securing the property, as well, as a plan for the rehabilitation and/or removal of the property.

(Prior Code, §§ 81.04, 81.05) (Ord. 95-15, passed 12-28-1995)

§ 150.076 STANDARDS.

All work for the reconstruction, repair or demolition of buildings and other structures shall be

performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission, shall be considered standard and acceptable practice for all matters covered by this subchapter or orders issued pursuant to this subchapter by the Building Commissioner of the county.

(Prior Code, § 81.06) (Ord. 95-15, passed 12-28-1995)

§ 150.077 UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the town in accordance with the provisions of I.C. 36-7-9-14.

(Prior Code, § 81.07) (Ord. 95-15, passed 12-28-1995)

§ 150.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Building code.* If any person, firm or corporation shall violate any of the provisions of §§ 150.001 through 150.019, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, with the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of §§ 150.001 through 150.019, for each violation, failure or refusal, the person, firm or corporation shall be fined in the sum of \$50. Each day of the unlawful activity as is prohibited by the first sentence of this division shall constitute a separate offense.

(Prior Code, § 80.19)

(C) *Unsafe buildings.*

(1) No person, firm or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of the Unified Zoning Ordinance or Unified Subdivision Ordinance of the town or any of the provisions of §§ 150.065 through 150.072 or any order issued by the Building Commissioner. Any person violating the provisions of §§ 150.065 through 150.072 or I.C. 36-7-9-28 shall commit a class C infraction for each day the violation continues.

(2) Any and all costs incurred to enforce or implement the provisions of §§ 150.065 through 150.072 shall constitute a lien on the subject real estate in favor of the town.

(Prior Code, §§ 81.08, 81.09)

(Ord. 95-15, passed 12-28-1995; Ord. 95-16, passed 12-28-1995)

CHAPTER 151: SUBDIVISION REGULATIONS

Section

151.01 Adoption by reference

§ 151.01 ADOPTION BY REFERENCE.

The Unified Subdivision Ordinance of Tippecanoe County, copies of which are on file in the office of the Town Clerk-Treasurer, is adopted and incorporated by the town as part of this code of ordinances as fully as if set out at length herein.

(Ord. 75-3, passed - -; Ord. 77-7, passed - -1977; Ord. 82-9, passed 9-13-1982; Ord. 84-4, passed 10-1-1984; Ord. 86-9, passed - -1986; Ord. 87-4, passed 2-2-1987; Ord. 88-4, passed 7-11-1988; Ord. 88-6, passed 7-11-1988; Ord. 9-3, passed 10-7-1991; Ord. 96-5, passed 6-3-1996; Ord. 97-9, passed 9-2-1997; Ord. 98-2, passed 3-2-1998; Ord. 00-02, passed 2-7-2000; Ord. 02-05, passed 7-1-2002; Ord. 02-06, passed 7-1-2002; Ord. 03-02, passed 2-3-2003; Ord. 08-2009, passed 9-8-2009; Ord. 2013-1, passed 1-7-2013; Ord. 2013-3, passed 1-7-2013; Ord. 2014-2, passed 2-3-2014; Ord. 2014-7, passed 5-5-2014)

CHAPTER 152: ZONING REGULATIONS

Section

152.01 Adoption by reference

§ 152.01 ADOPTION BY REFERENCE.

The Unified Zoning Ordinance of Tippecanoe County, copies of which are on file in the office of the Town Clerk-Treasurer, is adopted and incorporated by the town as part of this code of ordinances as fully as if set out at length herein.

(Ord. 80-13, passed - -; Ord. 89-1, passed - -; Ord. 89-3, passed - -; Ord. 98-15, passed - -; Ord. 98-16, passed - -; Ord. 99-4, passed - -; Ord. 74-5, passed 9-9-1974; Ord. 74-6, passed 9-9-1974; Ord. 75-4, passed 6-2-1975; Ord. 75-6, passed 10-6-1975; Ord. 77-2, passed 3-7-1977; Ord. 77-9, passed 12-12-1977; Ord. 78-3, passed 5-1-1978; Ord. 78-12, passed 9-11-1978; Ord. 78-13, passed 11-6-1978; Ord. 79-6, passed 6-4-1979; Ord. 79-8, passed 9-10-1979; Ord. 80-4, passed 7-1-1980; Ord. 80-5, passed 8-4-1980; Ord. 81-5, passed 6-1-1981; Ord. 80-16, passed 1-5-1982; Ord. 82-3, passed 3-1-1982; Ord. 82-6, passed 6-6-1982; Ord. 82-7, passed 8-2-1982; Ord. 82-11, passed 11-1-1982; Ord. 83-3, passed 7-11-1983; Ord. 83-10, passed 11-7-1983; Ord. 84-1, passed 9-10-1984; Ord. 85-2, passed 3-4-1985; Ord. 85-3, passed 3-4-1985; Ord. 85-11, passed 1-6-1986; Ord. 86-1, passed 3-3-1986; Ord. 86-2, passed 6-2-1986; Ord. 86-5, passed 11-3-1986; Ord. 86-6, passed 11-3-1986; Ord. 86-7, passed 11-3-1986; Ord. 86-8, passed 12-1-1986; Ord. 87-8, passed 8-3-1987; Ord. 88-1, passed 4-4-1988; Ord. 88-2, passed 5-2-1988; Ord. 88-3, passed 6-6-1988; Ord. 88-5, passed 6-6-1988; Ord. 91-2, passed 10-7-1991; Ord. 92-4, passed 9-14-1992; Ord. 96-10, passed 11-4-1996; Ord. 98-1, passed 3-2-1998; Ord. 98-4, passed 4-6-1998; Ord. 98-5, passed 4-6-1998; Ord. 98-6, passed 7-9-1998; Ord. 98-9, passed 9-8-1998;

Ord. 98-10, passed 9-8-1998; Ord. 99-2, passed 3-1-1999; Ord. 99-3, passed 3-1-1999; Ord. 99-5, passed 6-7-1999; Ord. 99-7, passed 7-12-1999; Ord. 99-11, passed 10-4-1999; Ord. 00-01, passed 1-10-2000; Ord. 00-05, passed 4-3-2000; Ord. 00-08, passed 6-5-2000; Ord. 00-09, passed 8-7-2000; Ord. 00-12, passed 9-18-2000; Ord. 01-01, passed 2-5-2001; Ord. 01-05, passed 7-2-2001; Ord. 01-10, passed 9-10-2001; Ord. 01-12, passed 10-1-2001; Ord. 01-07, passed 11-5-2001; Ord. 01-14, passed 12-3-2001; Ord. 02-01, passed 2-4-2002; Ord. 02-02, passed 3-4-2002; Ord. 02-04, passed 6-3-2002; Ord. 02-07, passed 7-1-2002; Ord. 02-08, passed 7-1-2002; Ord. 02-09, passed 9-9-2002; Ord. 03-01, passed 2-3-2003; Ord. 03-03, passed 5-5-2003; Ord. 03-04, passed 6-2-2003; Ord. 03-05, passed 7-7-2003; Ord. 03-07, passed 8-4-2003; Ord. 03-08, passed 8-4-2003; Ord. 03-10, passed 9-8-2003; Ord. 04-02, passed 2-2-2004; Ord. 04-03, passed 5-3-2004; Ord. 04-04, passed 5-3-2004; Ord. 04-07, passed 10-15-2004; Ord. 04-08, passed 11-1-2004; Ord. 05-01, passed 2-7-2005; Ord. 06-03, passed 2-6-2006; Ord. 06-04, passed 3-6-2006; Ord. 06-07, passed 8-7-2006; Ord. 06-09, passed 10-2-2006; Ord. 09-03, passed 7-6-2009; Ord. 06-2009, passed 9-8-2009; Ord. 07-2009, passed 9-8-2009; Ord. 11-2009, passed 12-7-2009; Ord. 2010-07, passed - -2010; Ord. 2010-08, passed - -2010; Ord. 10-02, passed, 4-5-2010; Ord. 10-16, passed 10-11-2010; Ord. 10-17, passed 10-11-2010; Ord. 10-18, passed 10-11-2010; Ord. 2011-01, passed 1-3-2011; Ord. 2011-03, passed 2-7-2011; Ord. 2011-8, passed 7-11-2011; Ord. 2012-10, passed 11-5-2012; Ord. 2013-4, passed 4-1-2013; Ord. 2013-8, passed 7-8-2013; Ord. 2013-12, passed 10-7-2013; Ord. 2013-16, passed 12-2-2013; Ord. 2014-1, passed 1-13-14; Ord. 2014-6, passed 5-5-2014; Ord. 2014-8, passed 6-2-2014; Ord. 2014-10, passed 7-7-2014; Ord. 2014-11, passed 9-8-2014)

TABLE OF SPECIAL ORDINANCES

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- VI. VACATIONS**
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TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-1	2-6-1978	Annexing Carr, Livesay and Fields and Amoco Oil Company properties to the town.
96-9	10-7-1996	Annexing a part of the northeast quarter of Section 9, Township 22 North, Range 3 West, Key number 118-00900-0197.
97-1	1-6-1997	Annexing a part of the northeast quarter of Section 9, Township 22 North, Range 3 West, Key number 118-00900-0280.
00-10	1-8-2001	Annexing approximately 6.606 acres of certain real estate located along Dayton Road.

TABLE II: AGREEMENTS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
73-3	4-2-1973	Approving an interlocal cooperation agreement and authorizing the president to execute the agreement.
74-3	7-1-1974	Approving agreement for participation in cooperative operation of Region IV Development Commission.
78-4	5-1-1978	Authorizing, ratifying and confirming an agreement between the City of Lafayette and the town for wastewater treatment.
85-10	11-4-1985	Ratifying an interlocal agreement with the County Clerk and prosecuting attorney which provides for enforcement of the town traffic ordinance by the county prosecuting attorney and collection of fines by the County Clerk.
95-2	2-13-1995	Authorizing, ratifying and confirming an agreement between the City of Lafayette and the town for the supply of water.

TABLE III: BONDS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-5	5-1-1978	Concerning the construction and operation by the town of sewage works, the issuance of revenue bonds to apply on the cost, the collection, segregation and distribution of the revenues of the works and the safeguarding of interests of the holders of the bonds.
88-8	10-3-1988	Amending Ordinance 78-5.
98-7	7-9-1998	Authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of constructing the municipal waterworks of the town, providing for the safeguarding of interests of the owners of the bonds and other matters connected therewith, including the issuance of notes in anticipation of bonds.
98-13	10-23-1998	Amending and restating the ordinance of the town authorizing the issuance of waterworks revenue bonds.
99-8	7-12-1999	Authorizing the issuance and sale of bonds for the purpose of providing funds to be used for the renovation of the Town Hall.
2013-7	6-24-2013	Authorizing the town's refunding of its waterworks revenue bonds of 1998 through the issuance of waterworks refunding bonds, and the collection, segregation and distribution of revenues of the waterworks.

TABLE IV: CONTRACTS FOR PURCHASE OF REAL ESTATE

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
77-8	11-7-1977	Approving a contract for purchase of real estate between Wilma Baker and the Utility Service Board of the town.
77-10	12-12-1977	Approving a contract for purchase of real estate between Wilma Baker and the Utility Service Board of the town and repealing Ordinance 77-8.

TABLE V: FRANCHISES

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
73-4	- -	Approving a street lighting contract with the Public Service Company of Indiana, Inc.
83-4	- -	Approving a street lighting contract with the Public Service Company of Indiana, Inc.
71-3	5-3-1971	Approving an electric franchise, grant and contract with the Public Service Company of Indiana, Inc.
72-6	8-7-1972	Approving a contract with Indiana Gas Company, Inc. for a natural gas franchise.
80-11	8-18-1980	Approving and authorizing a contract for electric energy for power and light for operating a municipal sewage disposal system with the Public Service Company of Indiana, Inc.
81-1	2-2-1981	Granting a franchise to Greater Lafayette TV Cable Co., Inc. for cable television distribution and approving a contract.
93-8	- -1993	Providing for the regulation of basic service tier rates and related equipment, installation and service charges of any cable television system operating in the town.
94-9	12-28-1994	Granting a franchise to Times Mirror Cable Television for cable television distribution and approving a contract.

TABLE VI: VACATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
92-1	5-4-1992	Vacating a public alley in Bush's Marquis De Lafayette Subdivision and Bush's First Addition.
93-1	3-1-1993	Vacating a portion of Ohio Street and Pennsylvania Street.
95-6	6-5-1995	Vacating an easement of 1ten feet.
95-7	6-5-1995	Vacating an easement of 15 feet.
95-12	12-4-1995	Vacating an alley between Lots 9 and 10 in Bush's Second Addition.
96-3	4-1-1996	Vacating the street known as Railroad Street between Lots 10 and 11 in Bush's Second Addition from South Street to the railroad right-of-way.
06-06	7-10-2006	Vacating an alley running in an east-west direction bounded by a part of Outlots 4 and 5 in Horam's Addition of Outlots.
05-2009	8-3-2009	Vacating a portion of an alley adjoining David H. Gregory's Third Addition.

TABLE VII: ZONING

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
71-5	6-7-1971	Rezoning the real estate 43 feet off the west side of Lot 54 and Lots 55 and 56 in Horam's Addition as GB.
71-8	11-1-1971	Rezoning the following real estate as GB: 1. Bereas Addition, Lots 7, 12 and 16; 2. Bartmes Addition, Lots 3, 4, 5, 6 and 7; 3. Gregory's Second Addition, Lots 1, 3 and 4; 4. Gregory's First Addition, Lots 1, 4, 5, 6, 8 and 9; 5. Horains Addition, Lots 1, 27 and 29; 6. Bush's Second Addition, Lots 1 and 2; 7. Original plat of Marquie, not part of Dayton, Lots 6 and 12; 8. Fancher's Acres, Lot 5; 9. Bush's First Addition, Lots 1, 2 and 14; 10. Bush's Second Addition, Lots 3 and 4; and 11. That part of Section 9, Township 22 North, Range 3 West located on the south side of Highway 38 and being now occupied by the Masonic Lodge.
72-2	6-5-1972	Rezoning Lots 13 and 14 in Bush's Second Addition as R-2.
72-10	12-4-1972	Rezoning a part of the west half of the southeast quarter of Section 5, Township 22 North, Range 3 West as AB.
76-2	6-7-1976	Rezoning a part of the east half of the northeast quarter of Section 8, Township 22 North, Range 3 West from A to R-3.
77-6	10-3-1977	Rezoning the following real estate as R-1: part of the northwest quarter of Section 9, Township 22 North, Range 3 West.

Dayton - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-8	7-10-1978	Rezoning a part of the east half of the southwest quarter of Section 5, Township 22 North, Range 3 West from R-1 to AB.
78-9	- - 1978	Rezoning a part of the east half of the southwest quarter of Section 5, Township 22 North, Range 3 West from R-1 to AB.
78-15	11-6-1978	Rezoning a part of Lots 1 and 2 in David H. Gregory's Second Addition from LBS to GB.
80-2	4-7-1980	Rezoning Lot 2 in David H. Gregory's Second Addition from LBS to GB.
80-14	11-3-1980	Rezoning a part of the northeast quarter of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 4.68 acres more or less, from R-1 to R-2.
80-15	11-3-1980	Rezoning a part of the northeast quarter of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 9.88 acres more or less, from R-1 to R-1B.
81-11	11-16-1981	Rezoning a part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 2.777 acres, from A to AB.
87-2	2-2-1987	Rezoning from R-3 to R-1 and R-1B: 1. All R-3 lands lying north of State Road 38; and 2. All R-3 lands lying south of State Road 38 except a part of the east half of the northeast quarter of Section 8, Township 22 North, Range 3 West.
87-3	2-2-1987	Rezoning a part of the southwest quarter of Section 5, Township 22 North, Range 3 West of the Second Principal Meridian, containing 66.31 acres, to I.
87-6	7-13-1987	Rezoning a part of the west half of the northeast quarter of Section 8, Township 22 North, Range 3 West, containing 1.613 acres, from R-1 and R-1B to GB.
88-9	12-5-1988	Rezoning Lot 6 in Bera's Addition as platted upon part of the east half of the southeast quarter of Section 5, Township 22 North, Range 3 West from R-1 to LB.

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
93-2	4-5-1993	Rezoning part of the southeast quarter of Section 4, Township 22 North, Range 3 West, containing 50.3 acres more or less, from R-1 to R-1A.
93-7	10-4-1993	Rezoning part of the southeast quarter of Section 5 and part of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 37.83 acres more or less, from R-1 to R-1A.
95-9	- -1995	Rezoning Eugene G. and Joyce E. Blosser real estate from R-1 to AB.
95-11	11-6-1995	Rezoning Eugene G. and Joyce E. Blosser real estate from R-1 to AB.
96-6	8-5-1996	Rezoning the following real estate from R-1 to LB: 1. The northern 1,650 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 924 feet; and 2. The northern 2,131.37 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 1,405.37 feet.
96-8	9-3-1996	Rezoning the western 300 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 924 feet from R-1 to GB.
97-2	3-3-1997	Rezoning 710 Walnut from LBS to GB.
01-04	7-2-2001	Rezoning part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 4,900 feet more or less, from GB to I-3.
01-15	12-3-2001	Rezoning part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 4.377 acres more or less, from R-1 and NB to GB.

Dayton - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
02-03	6-3-2002	Rezoning from GB to I-3: 1. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 2.00 acres more or less; 2. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 4.377 acres more or less; and 3. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 3.00 acres more or less.
03-09	8-4-2003	Rezoning part of the northwest quarter of Section 9, Township 22 North, Range 3 West, containing 10.000 acres more or less, from R-1 to NB.
05-12	11-7-2005	Rezoning Lots 59—76 Prestwick Manor, Section One, from R-2 to PDRS.
06-08	10-2-2006	Rezoning part of the northwest quarter of Section 9, Township 22 North, Range 3 West, containing 2.26 acres more or less, from R-1 to NB.
2012-4	5-7-2012	Rezoning part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 4,900 square feet more or less, from I3 to GB.
2013-6	6-3-2013	Rezoning 773 Walnut Street from R1 to NB.
2013-9	10-7-13	Rezoning Lot 4 in David H. Gregory's First Addition from NBU to R1U.
2014-3	4-7-2014	Rezoning part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 11.010 acres more or less, from R1 and NB to I3.
2015-1	3-19-2015	Rezoning a part of the Eugene G. and Joyce E. Blosser real estate located in a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 11.550 acres, more or less, from HB, NB, R1 to I3.
2015-6	6-1-2015	Rezoning part of the east half of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 2.017 acres, more or less, from R1 to I3.

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Dayton - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
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TOWN OFFICIALS

OF

DAYTON,
INDIANA

TOWN COUNCIL

MEMBER
MEMBER
MEMBER
MEMBER
MEMBER

Mike Harris, President
Ashley Stevenson
Ron Koehler
Tammi Nice
Tyron Taylor

TOWN OFFICIALS

TOWN ATTORNEY

TOWN CLERK-TREASURER
UTILITY SUPERINTENDENT

Joseph T. Bumbleburg, Esquire,
and Jason Ramsland, Esquire
Lena Merkel
Roman L. Hahn

Town of Dayton
721 Walnut Street
Dayton, Indiana 47941
Phone: 765-296-2533
Fax: 765-296-4212

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ORDINANCE 11-4

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE TOWN OF DAYTON, INDIANA, REVISING, REARRANGING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety, and general welfare of the Town of Dayton, Indiana, (hereafter “the Town”) and the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Indiana empower and authorize the Town to revise, rearrange, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one code in book form; and

WHEREAS, the Town Council as the legislative body of the Town has authorized a general compilation, revision, rearrangement, and codification of the ordinances of the Town of a general and permanent nature and publication of such ordinances in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the Town and for the immediate preservation of the public peace, health, safety and general welfare of the Town that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF DAYTON, INDIANA:

Section 1. The general ordinances of the Town as revised, rearranged, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the “Code of Ordinances of the Town of Dayton, Indiana.”

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

TITLE I: GENERAL PROVISIONS
TITLE II: [unused]
TITLE III: ADMINISTRATION
TITLE IV: [unused]
TITLE V: PUBLIC WORKS
TITLE VI: [unused]
TITLE VII: TRAFFIC CODE
TITLE VIII: [unused]
TITLE IX: GENERAL REGULATIONS
TITLE X: [unused]

TITLE XI: BUSINESS REGULATIONS

TITLE XII: [unused]

TITLE XIII: GENERAL OFFENSES

TITLE XIV: [unused]

TITLE XV: LAND USAGE

- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Town Council of the Town and the Clerk-Treasurer of the Town is hereby authorized and ordered to file a copy of such Code of Ordinances in the office of the Clerk-Treasurer.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

ADOPTED AND PASSED BY THE TOWN COUNCIL OF THE TOWN OF DAYTON, INDIANA THIS 7 DAY OF MARCH, 2011.

Michael Harris /s/
Michael Harris, Presiding Officer

ATTEST:
Ron Koehler /s/
Ron Koehler, Clerk-Treasurer

ORD 2011-10

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES FOR THE TOWN OF DAYTON, INDIANA
AND DECLARING AN EMERGENCY.**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1st supplement to the Code of Ordinances of the Town of Dayton, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Town; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Indiana code; and

WHEREAS, it is the intent of the Town Council to accept these updated sections in accordance with the changes of the law of the State of Indiana; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAYTON, INDIANA:

- Section 1. That the 1st supplement to the Code of Ordinances of the Town of Dayton as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk Treasurer of Dayton, Indiana is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk Treasurer.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of the Town of Dayton, Indiana on this 7th day, of Nov, 2011 .

Dayton - Adopting Ordinance

ATTEST:

Town Council

Ron Koehler /s/
Ron Koehler, Clerk-Treasurer

Michael Harris /s/
Michael Harris

Mike O. Boas /s/
Mike O. Boas

John Swick /s/
John Swick

Ronald D. Merkel Jr. /s/
Ronald D. Merkel Jr.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. INCORPORATION OF TOWN

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Construction of code
- 10.05 Rules of interpretation; definitions
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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 “Town of Dayton 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 the Indiana Code.

§ 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 refer 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)

(H) All provisions of this code are limited to the territorial boundaries of the town unless the provision specifically provides otherwise.

§ 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 of one gender shall include the other genders unless the context clearly indicates or requires a different meaning. 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.

AND. May be read **OR** if the sense requires it.

CLERK - TREASURER. The Clerk-Treasurer of the Town Council.

COUNCIL. The Town Council.

COUNTY. Tippecanoe County, Indiana.

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

I.C. or IC. Refers to the Indiana Code.

MAY. Means the act referred to is permissive.

MONTH. One calendar month.

OATH. Includes an affirmation.

OR. May be read **AND** if the sense requires it.

PERSON. Extends to and includes an individual person or persons, firm, corporation, copartnership, trustee, receiver, limited liability company, association, fiduciary, or governmental entity. 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.

REASONABLE TIME. See § 10.10(A).

REGISTERED MAIL. Includes certified mail.

SHALL. Means the act referred to is mandatory.

STATE. The State of Indiana.

TOWN. The Town of Dayton, Indiana.

TOWNSHIP. Sheffield Township.

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 nonseverability 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 an ordinance stating that the provisions of a code section are severable as provided in division (B) above does not affect the operation of division (B) with respect to that 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 this municipality 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; or at the time of the effective date of that ordinance or subsequent thereto, 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.

(C) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

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. 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. 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 legislative body 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. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 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.*

(C) If a section of this code is derived from the previous code of ordinances of the town and subsequently amended, the previous code section number shall be indicated in the history by “(Prior Code, § ____).”

§ 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 11: INCORPORATION OF TOWN

Section

- 11.01 Incorporation
- 11.02 Area of incorporation

§ 11.01 INCORPORATION.

The “Town of Dayton” is hereby declared to be incorporated and from and after this date the incorporated town shall be known as “Town of Dayton.”

(Ord. 70-1, passed 6-24-1970)

§ 11.02 AREA OF INCORPORATION.

The incorporated area of the town shall encompass and include the area of land which was described in the petition to incorporate the Town of Dayton, Indiana, which petition was filed with the Board of Commissioners of the county, on 4-20-1970, and which the area is described by a survey attached to the petition. The incorporated area of the town shall include and encompass only the area sought to be incorporated as described in the petition to incorporate the town.

(Ord. 70-1, passed 6-24-1970)

TITLE III: ADMINISTRATION

Chapter

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CHAPTER 30: GENERAL PROVISIONS

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(D) A standard fee for providing a duplicate of a computer tape from a computer disk, microfilm or similar or analogist record system in the amount of \$12 per hour and \$0.50 per diskette representing the direct cost of supplying the information in the form;

(E) The cost of copying photographs shall be the actual cost to develop;

(F) The cost for documents duplicated outside of the Clerk-Treasurer's office shall be the actual cost of the copying;

(G) Fees for books and pamphlets containing public records shall not exceed the actual cost of production including copying charges and binding; and

(H) The fee for each copy of an accident report shall be \$8.
(Ord. 04-05, passed 5-3-2004; Am. Ord. 2011-11, passed 12-5-2011)

§ 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 §§ 34.20 through 34.22

§ 30.02 FEES PERTAINING TO DOCUMENTS.

Pursuant to I.C. 5-14-3-8, the town shall collect the following fees for the collection, reproduction and dissemination of information requested by the public:

(A) A standard fee of \$0.25 per order plus \$0.10 per side per page for any eight and one-half by 11-inch, eight and one-half by 14-inch or 11 by 17-inch photocopy;

(B) A standard fee of \$0.25 per order plus \$0.25 per page for facsimile transmissions of documents;

(C) A standard fee of \$3 for cassette tape;

§ 30.03 HOURS AND USE OF TOWN PROPERTY.

(A) This section shall apply to all real estate owned by the town, hereinafter in this section referred to as real estate, except for the Town Hall building including the regularly rented area, and all streets, rights-of-way and sidewalks.

(B) It shall be unlawful for any person to be within or upon any real estate outside of the open hours, without a specific written authorization from the Town Council, except for any law enforcement

officers. The open hours for the real estate shall be from 8:00 a.m. to 8:00 p.m.

(C) It shall be unlawful for any person to have, keep, carry, serve or drink any beer, wine or other intoxicating beverage within or upon the real estate.

(D) It shall be unlawful for any person to deposit, permit or suffer to be deposited, dropped, thrown or discarded upon any real estate any garbage, sewage, refuse, paper, cardboard, bottle, cans, plastic cups or containers or any other waste.

(E) It shall be unlawful for any person to, by word or act, indulge in any noisy, boisterous, disorderly or indecent conduct, deposit any human excrement or waste, except where facilities are provided therefore and identified by the Town Council, or in any manner disturb the peace or good order of the community about, around and within the real estate.

(F) Where the Town Council has authorized any person to engage in the growing of any plant, crop, vegetable, flowers or in general to engage in gardening or farming on the real estate, then the person so authorized and the members of that person's family may go on the real estate to engage in gardening or farming activity beginning at 6:00 a.m. instead of 8:00 a.m. as provided in division (B) above.

(Prior Code, §§ 92.01—92.06) (Ord. 87-5, passed 2-5-1987) Penalty, see § 30.99

§ 30.04 AUTHORIZED METHODS OF PAYMENT TO THE TOWN.

(A) Pursuant to I.C. 36-1-8-11, the town is hereby authorized to accept the following types of financial instruments for payment:

- (1) Cash;
- (2) Check;
- (3) Bank draft;
- (4) Money order;

(5) Bank card/debit card;

(6) Credit card;

(7) Electric fund transfer.

(B) The Clerk-Treasurer has the authority to determine if, and under what circumstances, to accept for payment any of the financial instruments listed above as he or she, in his or her discretion, believes is in the best financial interest of the town.

(C) If the town incurs any charge for the use of any type of financial instruments set forth above, the town may collect a sum equal to the amount of the charge from the person or entity that uses the financial instrument.

(D) If recovery of the full amount of the charge for the use of any type of financial instrument incurred by the town is not permitted under any contract or other agreement with a credit card or bank card vendor, the city may absorb the charges, provided, however, that collection of fees is applied uniformly to all types of credit card or bank card payments.

§ 30.05 INTERNAL CONTROL STANDARDS.

(A) The town hereby adopts the uniform internal control policy standards for Indiana Political Subdivisions manual as published by the Indiana State Board of Accounts in September 2015, and as it may be amended from time-to-time, as the internal control standards for the town.

(B) The Town of Dayton, Indiana adopts as policy the internal control standards set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions in September 2015, and as it may be amended from time-to-time.

(C) In order to implement these standards, there is established an Internal Control Standards Oversight Committee, which shall consist of the President of the Town Council, the Town Clerk, and another member of the Town Council selected by the Town Council.

(C) All officers, elected officials and employees are required to comply with this policy. Employees who fail to comply with this policy are subject to discipline, up to and including, but not limited to, termination of employment.

(Ord. 2016-4, passed 5-2-2016)

§ 30.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Hours and use of town property.* Whenever herein any act as prohibited or is made or declared to be unlawful, the violation thereof shall be punishable by a fine not to exceed \$500.

(Prior Code, § 92.07) (Ord. 87-5, passed 2-5-1987)

CHAPTER 31: TOWN COUNCIL

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GENERAL PROVISIONS

§ 31.001 TERM OF OFFICE.

Except as otherwise provided in I.C. 36-5-2-3(b), (c), (d) or (e), 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))

§ 31.002 RESIDENCY REQUIRED.

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

(1) The town as provided in Indiana 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)

Cross-reference:

Meetings; rules of procedure, see §§ 31.035 through 31.055

MEETINGS; GENERAL PROVISIONS

§ 31.015 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.

§ 31.016 NOTICE OF MEETINGS.

(A) Regular meetings of the Town Council shall be held at a time and place established by the Town Council.

(B) 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 office exists, at the building where the meeting is to be held.

§ 31.017 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.

§ 31.018 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))

§ 31.019 QUORUM.

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

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

§ 31.020 CLERK OF COUNCIL; TIE-BREAKING VOTE.

(A) The Town Clerk-Treasurer is the Clerk of the Town Council.

(B) 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)

§ 31.021 TIME OF REGULAR MEETINGS; SPECIAL MEETINGS.

(A) *Regular meetings.* The regular meeting of the Town Council shall be held on the first Monday of every month at 7:00 p.m. In the event that a holiday falls on the same day of a regularly scheduled Council meeting, then that meeting will be held on the next Monday after the Monday on which the holiday occurred.

(B) *Special meetings.* Special meetings of the Town Council may be called upon written notice of not less than 72 hours by the presiding officer or by not fewer than three members thereof, which notice shall be directed as follows: "To the Town Council of the Town of Dayton," specifying therein the time and object of the meeting. The notice shall be delivered by the Clerk-Treasurer and served on each member of the Council by reading the same in his or her hearing, or by leaving a copy thereof at the last place of residence of each of the members. It shall not be necessary to serve the notice upon the members as have signed the call.

(Ord. 70-2, passed 10-5-1970; Ord. 96-1, passed 2-5-1996; Res. 2011-02, passed 6-6-2011)

§ 31.022 APPROVAL OF MINUTES.

The Clerk-Treasurer shall furnish copies of the proposed minutes to the members prior to the call to order of the meeting.

(Ord. 92-7, passed 4-6-1992)

MEETINGS; RULES OF PROCEDURE

§ 31.035 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 of Council shall proceed to call the roll of members. If a quorum is present, the Clerk of Council shall so announce and the Council shall proceed with the order of business.

Cross-reference:

Election of Council President, see § 31.004

Town Clerk-Treasurer serves as Clerk of Council, see § 32.003

§ 31.036 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall be necessary to transact the business of the Town Council.

(B) 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.

§ 31.037 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 of Council 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.

§ 31.038 DUTIES OF THE PRESIDENT.

(A) The President shall serve as the Chair, 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 Chair, the Council members may consider and pass upon the matter in spite of the Chair'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.

§ 31.039 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 presiding officer and shall not proceed with his or her remarks until recognized and named by the Chair.

(C) A member so recognized by the Chair 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 Chair, 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 Chair.

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

(G) A member, when called to order by the Chair, shall thereupon discontinue speaking. The order or ruling of the Chair 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 Chair and, if the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the Chair 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 Chair shall then put the question, "Shall the decision of the Chair 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.

§ 31.040 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 presiding officer before debate.

§ 31.041 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.

§ 31.042 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.

§ 31.043 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.

§ 31.044 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 of Council 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 of Council by answering "Aye" or "Nay," as the case may be.

(B) The names of each member of the Council shall be listed on the official copy of every ordinance passed indicating specifically the names of those voting "Aye" and those voting "Nay."

(C) 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.

(D) 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 § 31.071

§ 31.045 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.

§ 31.046 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.

§ 31.047 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.

§ 31.048 MOTION TO POSTPONE INDEFINITELY.

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

§ 31.049 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.

§ 31.050 AMENDMENTS.

(A) Only one amendment at a time may be offered to any question before the Council.

(B) The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed.

(C) Finally, a vote shall be taken on the principal motion as finally amended.

§ 31.051 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 Chair 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 Chair 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.

§ 31.052 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.

§ 31.053 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 of Council prior to the meeting. The Clerk of Council shall endeavor to distribute copies or read the material to the members of the Council.

§ 31.054 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.

§ 31.055 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

§ 31.070 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 § 31.044

§ 31.071 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) 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 legislative body districts.

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

§ 31.072 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); 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 legislative body districts under I.C. 36-5-2-4.1.

(C) Except as provided in division (E), if a 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, it takes effect two weeks after the publication of the book or pamphlet. Publication under this division, 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) That the ordinances have been properly signed; attested, recorded, and approved.

(D) This section (other than division (F)) 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) of this section.

(F) Subject to division (J), the legislative body shall:

(1) Subject to division (G) of this section, 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 legislative body, the Department of Environmental Management may waive the notice requirement of division (F)(1) of this section.

(H) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of division (F) of this section.

(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) apply only if the Town Council 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) 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)

§ 31.073 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

Section

Clerk-Treasurer

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- 32.002 Election; term of office
- 32.003 Powers and duties
- 32.004 Deputies and employees
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Town Marshal

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- 32.066 Authority of Town Council
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- 32.071 Salary

Cross-reference:

Clerk-Treasurer as Ordinance Violations Clerk, see § 34.02

CLERK-TREASURER

§ 32.001 RESIDENCY REQUIREMENT.

(A) The Clerk-Treasurer must reside within the town as provided in Indiana Constitution Article 6, § 6.

(B) The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town. (I.C. 36-5-6-3(a))

§ 32.002 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) or (d), 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))

§ 32.003 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)

§ 32.004 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)

§ 32.005 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)

TOWN MARSHAL

§ 32.020 APPOINTMENT; COMPENSATION.

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

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

§ 32.021 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)

Cross-reference:

Police Department, see Ch. 33

§ 32.022 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) 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. (I.C. 36-5-7-6)

Cross-reference:

Police Department, see Ch. 33

§ 32.023 UNIFORM ALLOWANCE.

(A) The town shall purchase equipment and uniforms for the Town Marshal and each Deputy Marshal in an amount not to exceed \$600 per officer annually.

(1) The uniform allowance shall be part of each officer's total compensation and shall be subject to regular payroll tax withholding.

(2) The uniform allowance shall be paid biennially in payments of \$300 in the pay periods including January 1 and July 1.

(B) Nothing contained herein shall limit the Town Board from authorizing additional purchases of equipment and uniforms if, at the discretion of the Board, such purchases are reasonably necessary. (Ord. 14-9, passed 6-5-2014)

AREA PLAN COMMISSION

§ 32.035 MEMBERS; QUALIFICATIONS.

The representation, both as to the number of members and the qualification, of members of the Area Plan Commission of Tippecanoe County shall be pursuant to I.C. 36-7-4-211, fixed at a total of 17 members, to be determined as follows:

(A) Two representatives who shall be members of the County Board of Commissioners and who shall be chosen by such Board of Commissioners and whose term shall be fixed by such Board, but shall not exceed their terms as such Commissioners.

(B) Two representatives who shall be members of the County Council and who shall be chosen by such County Council and whose term shall be fixed by such Council, but shall not exceed their terms on such Council.

(C) A representative who shall be an elected official, who shall be appointed by the Mayor of the city and whose term shall correspond to such elected official's term.

(D) One representative who shall be a member of the City Council of the city, and who shall be chosen by such City Council and whose term shall be fixed by such Council, but shall not exceed such Council member's term on such Council.

(E) A representative who shall be an elected official, who shall be appointed by the Mayor of the City of West Lafayette and whose term shall correspond to such elected official's term.

(F) One representative who shall be a member of the City Council of the City of West Lafayette, and who shall be chosen by such City Council and whose term shall be fixed by such Council, but shall not exceed such Council member's term on such Council.

(G) One representative who shall be a member of the Town Board of the Town of Battle Ground, Indiana and who shall be chosen by such Town Board and whose term shall be fixed by such Town Board, but shall not exceed such Town Board member's term.

(H) One representative who shall be a member of the Town Council of the Town of Clarks Hill, Indiana and who shall be chosen by such Town Council and whose term shall be fixed by such Town Council, but shall not exceed his or her term on such Town Council. The initial term shall begin on July 1, 1995, or the month of the adoption of this provision by the last adopting member unit, whichever is latest.

(I) One representative who shall be a member of the Town Board of the town and who shall be chosen by such Town Board and whose term shall be fixed by such Town Board, but shall not exceed such Town Board member's term.

(J) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the County Board of County Commissioners which appointees having heretofore been appointed shall continue in their present term and whose successor shall thereafter be appointed for a term of two years.

(K) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the Mayor of the City of West Lafayette. The current appointee having heretofore been appointed shall continue in the present term. The initial term of the new appointee shall be for two years beginning on January 1, 2016. Thereafter all appointments shall be for a term of two years.

(L) Two representatives who shall be citizen members holding no other elected or appointed municipal, county, or state office, who shall be appointed by the Mayor of the City of Lafayette, which appointees having heretofore been appointed shall continue in their present terms and whose successor shall thereafter be appointed for a term of two years.

(Prior Code, § 31.01) (Ord. 75-11, passed 12-1-1975; Ord. 95-8, passed - -1995; Ord. 2015-8, passed 12-7-2015)

§ 32.036 CITIES AND TOWNS TO PARTICIPATE BY ORDINANCE.

In the event any city or town named herein is not on the effective date of the appointment of the representatives prescribed herein or subsequently withdraws from participation, a participant by ordinance in the County Area Plan Commission, then the representative or representatives, be they Mayor, City Council members, Town Board member or citizen appointment, shall not be entitled to membership on the Plan Commission and the total membership of the Commission shall be reduced thereby.

(Prior Code, § 31.02) (Ord. 75-11, passed 12-1-1975)

UTILITY CLERK

§ 32.050 ESTABLISHED.

There is hereby established by the town the position of Utility Clerk, as provided by I.C. 36-5-6-7.
(Prior Code, § 37.01) (Ord. 1-94, passed 3-14-1994)

§ 32.051 APPOINTMENT.

The Town Clerk-Treasurer is directed to hire a Utility Clerk and the Utility Clerk shall be under the control and direction of the Clerk-Treasurer.
(Prior Code, § 37.02) (Ord. 1-94, passed 3-14-1994)

§ 32.052 SALARY.

The Utility Clerk's position shall be funded from:

(A) The Sewage Fund; and

(B) The Water Fund.

(Prior Code, § 37.03) (Ord. 1-94, passed 3-14-1994)

SCHOOL TRAFFIC GUARD**§ 32.065 ESTABLISHED.**

There is hereby established for the town the position of school traffic guard.
(Prior Code, § 35.01) (Ord. 83-1, passed - -1983)

§ 32.066 AUTHORITY OF TOWN COUNCIL.

The Town Council shall employ a school traffic guard and the school traffic guard shall be under the control and direction of the Town Council.
(Prior Code, § 35.02) (Ord. 83-1, passed - -1983)

§ 32.067 DUTIES.

The school traffic guard shall direct traffic and assist school children in the crossing of the street or streets as the Town Council shall heretofore or hereafter fix as the school crossing, and at the designated school crossing the traffic guard shall hereby be granted those police powers granted by the state to direct, stop and start vehicular and pedestrian traffic and shall have enforcement powers therefore.
(Prior Code, § 35.03) (Ord. 83-1, passed - -1983)

§ 32.068 SUBSTITUTION.

The school traffic guard, in the event of sickness, vacation or any emergency situation whereby he or she is unable to perform his or her duties hereunder, shall secure the services of some other person qualified to perform his or her duties as school traffic guard, which person so selected shall have all the powers of the appointed school traffic guard. Upon securing the other person, the school traffic guard appointed by the Town Council shall immediately advise the Town Clerk-Treasurer of the substitution of traffic guard and the identity of the person.
(Prior Code, § 35.04) (Ord. 83-1, passed - -1983)

§ 32.069 HOURS.

The school traffic guard shall be at the school crossing to perform the duties of the guard each day during which the grade school is actually in session during the regular school year. The Town Council shall fix the hours of the traffic guard in its minutes from time to time to correspond with starting and ending time of the school day.
(Prior Code, § 35.05) (Ord. 83-1, passed - -1983)

§ 32.070 AUTHORITY OF TOWN MARSHAL.

In addition to the duties herein set forth, the school traffic guard shall be subject to the general education and immediate direction of the Town Marshal in performing the duties of school traffic guard and any duties hereinafter set forth by resolution of the Town Council.
(Prior Code, § 35.06) (Ord. 83-1, passed - -1983)

§ 32.071 SALARY.

The salary of the school traffic guard will be fixed by the Town Council at the per day rate for each day the town grade school is actually in session during the regular school year and for which the school traffic guard performs the duties of school traffic guard as herein set forth, the salary payable monthly following the performance of duties. No other benefits

other than this salary shall be provided to the school traffic guard. For any substitute school traffic guard, the salary shall be the same and shall be paid by the town.

(Prior Code, § 35.07) (Ord. 83-1, passed - -1983)

CHAPTER 33: POLICE DEPARTMENT

Section

Police Training Fund

- 33.01 Establishment
- 33.02 Uses

POLICE TRAINING FUND

§ 33.01 ESTABLISHMENT.

A Police Training Fund is established for the exclusive use of and by the Town Police Department. (Prior Code, § 36.01) (Ord. 95-1, passed 1-9-1995)

§ 33.02 USES.

The Police Training Fund is for the exclusive use of and by the Town Police Department for any law enforcement related school, article or other related items to better enhance the performance of the Department. (Prior Code, § 36.03) (Ord. 95-1, passed 1-9-1995)

CHAPTER 34: FINANCES

Section

Disbursement of Funds

- 34.01 Appropriation required
- 34.02 Issue of warrants
- 34.03 Allowance of claims
- 34.04 Warrants for payment of claims
- 34.05 Payment of compensation to officer or employee prior to vacation leave
- 34.06 Claim payments in advance of allowance
- 34.07 Transfer of funds
- 34.08 Town credit cards
- 34.09 Electronic fund transfers
- 34.10 Promoting municipal betterment

Budgets

- 34.20 Preparation of annual budget estimates
- 34.21 Preparation and approval of ordinance fixing tax rate; making annual appropriations
- 34.22 Increase or decrease of appropriations after approval of ordinance

Cumulative Capital Development Fund

- 34.35 Declaration
- 34.36 Ad valorem tax
- 34.37 Maximum rates
- 34.38 Uses
- 34.39 Other uses
- 34.40 Approval by Department of Local Government Finance

Non-sufficient Fund Checks and Bad Debts

- 34.55 Handling of non-sufficient fund checks
- 34.56 Bad debt write-off policy

Rainy Day Fund

- 34.60 Rainy Day Fund

Wastewater Utility Debt Reserve Fund

- 34.65 Wastewater Utility Debt Reserve Fund

Water Utility Debt Reserve Fund

- 34.75 Water Utility Debt Reserve Fund

Fund 257

- 34.85 Fund 257

Cross-reference:

Police Training Fund, see §§ 33.20 and 33.21
Town Clerk to be Town Fiscal Officer, see § 32.003

DISBURSEMENT OF FUNDS

§ 34.01 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)

§ 34.02 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)

§ 34.03 ALLOWANCE OF CLAIMS.

(A) Except as provided in section § 34.06, 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)

§ 34.04 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 § 34.06, a warrant for payment of a claim against a 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 Fiscal Officer;

(3) Certified by the Fiscal Officer 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 Fiscal Officer under division (B)(3) of this section must be on a form prescribed by the State Board of Accounts.
(I.C. 36-5-4-6)

Cross-reference:

Town Clerk to be Town Fiscal Officer, see § 32.003

§ 34.05 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)

§ 34.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The Clerk-Treasurer shall be allowed to pay the following types of claims prior to the approval of the Town Council:

- (1) License fees or permit fees;
- (2) Insurance premiums;
- (3) Payments to utilities;
- (4) Maintenance or service agreements and contracts;
- (5) Bond payments;
- (6) Credit card payments;
- (7) Payroll;
- (8) Payments to state and federal taxing authorities;

(9) Expenses that must be paid because of emergency circumstances;

(10) Other contractual arrangement as approved by the Town Council on a case-by-case basis; and

(11) Other expenses as described in an ordinance.

(B) All payments made in accordance with this section shall be paid only after a detailed invoice that is in compliance with audit requirements is presented to the Clerk-Treasurer.

(C) All claims paid in accordance with this section shall be presented to the Town Council for review and allowance at the next meeting following the preapproved payment of the expense.

(D) Prepayment of invoices not related to town business is not authorized.

(E) Payment in advance of services rendered is not authorized by this section

(F) This section is adopted in compliance with Indiana Code authorizing a town to pay for certain purchases prior to town approval (Ord. 2010-05, passed - -2010)

Statutory reference:

Similar provisions, see I.C. 36-5-4-12

§ 34.07 TRANSFER OF FUNDS.

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. 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))

§ 34.08 TOWN CREDIT CARDS.

(A) Town employees and officials may use town credit cards for purchases related to the town when the use is in the best interest of the town.

(B) Town credit cards shall only be used with the approval of the Town Council or Clerk-Treasurer. Department heads issued a credit card shall maintain a usage log for each card identified by card account number (last four digits only). The log shall include the following:

(1) The name and position of the individual using the town's card;

(2) The type of purchase and approximate amount of the purchase;

(3) Upon return, the actual amount charged shall be indicated;

(4) The department head shall sign acknowledgment of return of card.

(C) Credit card purchases shall only be used for town business. No personal use of a town credit card is authorized.

(D) Because credit card purchases are subject to the same audit requirements as other disbursements, all detailed receipts must meet audit requirements. This means all receipts must be signed by the employee using the credit card, provide a detailed account of items purchased, free of non-business related items, free of sales taxes, and free of items prohibited by Indiana Code. It is the responsibility of the employee authorizing the charge to obtain properly itemized receipts. Charge slips showing a total charge

only is not acceptable without a store printout detailing items purchased as indicated above. Failure to do so could result in the charge becoming the personal obligation of the employee.

(E) Any interest or penalty incurred due to the late filing of receipts with the Clerk-Treasurer for payment of a credit card bill, or incurred due to the delay in furnishing documentation required for audit, shall be the responsibility of that employee.

(F) Credit cards shall not be used to bypass the accounting system.

(G) The Clerk-Treasurer shall be notified immediately if a credit card is lost or stolen.

(H) The Town Council or the Clerk-Treasurer is authorized to revoke credit cards that have been used in violation of town policy.

(I) This section is adopted in compliance with the *State Board of Accounts Manual for Cities and Towns* authorizing a town to use credit cards for purchases.

(Ord. 2010-06, passed - -2010)

§ 34.09 ELECTRONIC FUND TRANSFERS.

(A) *Electronic fund transfers.* The town of is hereby authorized to use electronic fund transfers for official business of the town.

(B) *Authority of Clerk-Treasurer.* The Clerk-Treasurer is hereby authorized and responsible for:

(1) Selecting the financial institution(s) to be used by the town for electronic fund transfers;

(2) Executing the application and agreement with the selected financial institution(s) for the town;

(3) Overseeing the use of electronic fund transfers for official town business;

(4) Maintaining the agreement and relationship between the town and the financial institution(s);

(5) Establishing appropriate security procedures for passwords, codes, controls and other authorizations to protect and preserve the funds and assets of the town; and

(6) Reviewing all transactions and confirmations in connection with the use of electronic fund transfers for proper authorization, documentation, itemization and purpose.

(C) Administration of payments.

(1) The Clerk-Treasurer shall not draw a warrant for an electronic fund transfer unless:

(a) There is a fully itemized invoice or bill for each expenses;

(b) Each invoice or bill is approved by the town employee or representative receiving the goods or services;

(c) The invoice or bill is filed with the Clerk-Treasurer;

(d) The Clerk-Treasurer audits and certifies before payment that the invoice or bill is true and correct; and

(e) Payment of the invoice or bill is allowed by the Town Council at a proper public meeting for those items requiring Council approval.

(2) All electronic fund transfers must be for official business of the town and shall not be personal in nature.

(D) *Electronic fund transfers.* Electronic fund transfers shall include automated clearinghouse (ACH) payments, automated teller machine (ATM) transactions, wire transfers, direct deposit, on-line

banking transactions, telephone transfers and other electronically authorized or implemented transfers or payments.

(Res. 2012-3, passed 8-8-2012)

(7) Other purposes the Town Council deems are directly related to the promotion and betterment of the town.

(Ord. 2013-14, passed 11-4-2013)

§ 34.10 PROMOTING MUNICIPAL BETTERMENT.

(A) The Town Council is hereby authorized to budget and appropriate funds from the General Fund or from other funds to pay the expenses incurred in promoting the betterment of the municipality.

(B) These expenses may include, but are not necessarily limited to, the following:

(1) Membership dues in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal operations.

(2) Direct expenses for travel, meals and lodging in conjunction with municipal business, meetings or organizations to which the municipality belongs.

(3) Expenses incurred in the promotion of tourism, residential development, economic or industrial development for the municipality, including meeting room rental, decorations, meals, travel, and promotional booths.

(4) Commemorative plaques, certificates or objects such as commemorative keys.

(5) An annual employee dinner to promote the betterment and morale of town employees.

(6) Items to recognize employees such as a retirement gift, cake, dinner, and the like, and gifts such as flowers for an illness of an employee or a death in the family.

BUDGETS

§ 34.20 PREPARATION OF ANNUAL BUDGET ESTIMATES.

Before the publication (before January 1, 2015) and 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 Town Fiscal Officer 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 Fiscal Officer to review and revise their various estimates.

(D) After the President's review and revision, the Fiscal Officer 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

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

The Town Fiscal Officer 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 Fiscal Officer. The Town Council shall promptly act on the appropriation ordinance.
(I.C. 36-5-3-4)

§ 34.22 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)

CUMULATIVE CAPITAL DEVELOPMENT FUND

§ 34.35 DECLARATION.

There is re-established a Town Cumulative Capital Development Fund.
(Prior Code, § 33.01) (Ord. 72-1, passed 2-7-1972; Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.36 AD VALOREM TAX.

An ad valorem property tax shall be imposed and the revenues from the levy will be retained in the Town Cumulative Capital Development Fund.
(Prior Code, § 33.02) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.37 MAXIMUM RATES.

The maximum rate of levy under § 34.36 will not exceed \$0.15 per \$100 assessed valuation.
(Prior Code, § 33.03) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.38 USES.

The funds accumulated in the Town Cumulative Capital Development Fund will be used for a municipal building, town drainage, streets and other purposes permitted under I.C. 36-9-15.5-2.
(Prior Code, § 33.04) (Ord. 72-1, passed 2-7-1972; Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.39 OTHER USES.

Notwithstanding § 34.38, funds accumulated in the Town Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in § 34.38, if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Town Council President issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the Fund.
(Prior Code, § 33.05) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

§ 34.40 APPROVAL BY DEPARTMENT OF LOCAL GOVERNMENT FINANCE.

This subchapter and the Fund re-established hereunder shall take effect from and after its passage and approval of the Fund by the State Board of Tax Commissioners.

(Prior Code, § 33.06) (Ord. 84-3, passed 8-27-1984; Ord. 87-7, passed 8-3-1987; Ord. 93-3, passed 7-12-1993)

***NON-SUFFICIENT FUND CHECKS
AND BAD DEBTS***

§ 34.55 HANDLING OF NON-SUFFICIENT FUND CHECKS.

(A) The town shall charge a fee to persons delivering a check which is refused by the financial institution for any reason. This fee will be the greater of \$27.50 or 5% of the face value of the check. This charge will not exceed \$250

(B) The town shall further implement the following procedures upon the receipt of returned checks:

(1) Payments of returned checks must include the above fees, and must be paid by cash, money order, or credit card;

(2) Partial payment on returned checks will not be accepted;

(3) Returned checks outstanding for greater than 15 days will be sent to the County Prosecutor for further action;

(4) If the utility payment due date has not passed, the utility customer shall have until the payment is due to make payment without risk of losing utility services;

(5) If the utility payment due date has passed, the utility customer shall have applicable penalties applied and utility services shut off at the town's earliest convenience (reconnect fees will apply);

(6) After the third payment is refused by the financial institution, the customer shall no longer have rights to present checks as payment for utility services.

(C) The town recognizes most financial institutions make two attempts to honor a check presented. The town is currently assessed a fee when the first attempt to honor a check fails. If the first attempt to honor a check fails, however the second attempt is successful, the town will assess only the charge assessed by the financial institution to the customer.

(D) This section is adopted in compliance with the *State Board of Accounts Manual for Cities and Towns* authorizing a town create a policy concerning non-sufficient fund checks received.

(E) This section shall be in full force and effect 9-13-2010.
(Ord. 2010-10, passed - -)

§ 34.56 BAD DEBT WRITE-OFF POLICY.

(A) *Accounts in arrears.* Accounts are considered in arrears if not paid by the due date.

(1) For accounts 30 days past due, the town's shut-off policy applies.

(2) For accounts 60 days past due, a lien shall be filed on the property.

(3) For accounts 120 days past due:

a. Accounts with amounts due that have not had a lien filed, such as when a property has exchanged hands, will be evaluated;

b. If an account has a balance of over \$100, the account shall be reported to a collections agency.

(B) *Factors for consideration of write-off.*

(1) Debt has been inactive three or more years and the avenues listed above have been exhausted to collect the outstanding debt, and the debt is currently deemed uncollectable; or

(2) The customer has passed away; or

(3) For other reasons the Town Council deems just and fitting to warrant a write-off.

(C) *Annual review.* At least annually, the Town Clerk-Treasurer shall present a list of uncollectable accounts to the Town Council for consideration of a write-off. Upon approval, the Clerk-Treasurer shall then make adjustments to customer accounts.

(Ord. 2012-01, passed 1-9-2012)

RAINY DAY FUND

§ 34.60 RAINY DAY FUND.

(A) *Fund established.* The Town of Dayton hereby establishes a Rainy Day Fund to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains. The Rainy Day Fund may also receive excess economic development income tax (EDIT) payments, excess county option income tax (COIT) payments, and other sources not otherwise prohibited by law and deemed appropriate by the Town Council.

(B) *Transfers to Fund.* On or before December 31 of each year, the Town Council shall determine the

amount, if any, of any unused and unencumbered funds available to be transferred to the Rainy Day Fund. Such transfer may not exceed 10% of Dayton's annual budget for any fiscal year.

(C) *Use of Fund.* The town may use the Rainy Day Fund as follows:

(1) Capital expenditures not otherwise budgeted for;

(2) To meet the town's matching portion of grants received;

(3) Other uses as allowed by the Indiana Code and deemed appropriate by the Town Council, such as, but not limited to, salaries and wages, costs of services, supplies, equipment, repairs, and similar expenditures.

(D) *Other transfers.* The Town Council may also authorize at any time a transfer from the Rainy Day Fund to the town's General fund or any other appropriated fund of the town.

(E) *Appropriations.* If so required, appropriations of the Rainy Day Fund shall be made through the Department of Local Government Finance prior to any expenditure of the Fund.
(Ord. 2011-6, passed 7-11-11)

WASTEWATER UTILITY DEBT RESERVE FUND

§ 34.65 WASTEWATER UTILITY DEBT RESERVE FUND.

(A) *Established.* The town establishes the Wastewater Utility Debt Reserve Fund.

(B) *Transfer.* The town wishes to transfer the amount of \$21,750, or the balance necessary to satisfy

the requirements of the Wastewater Revenue Bonds of 1978, from the Wastewater Bond and Interest Fund.

(C) *Effective.* The ordinance codified herein shall be in full force and effect 9-13-2010.
(Ord. 2010-13, passed - -)

WATER UTILITY DEBT FUND

§ 34.75 WATER UTILITY DEBT RESERVE FUND.

(A) *Established.* The town establishes the Water Utility Debt Fund.

(B) *Transfer, Water Improvement Fund.* The town wishes to transfer the Water Improvement Fund Balance of &36,369 to the Water Debt Reserve Fund.

(C) *Transfer, Water Operating Fund.* The town wishes to transfer the amount of \$104, 364, or the balance necessary to satisfy the requirements of Ordinance 98-7, from the Water Operating Fund.

(D) *Effective.* The ordinance codified herein shall be in full force and effect 9-13-2010.
(Ord. 2010-14, passed - -)

FUND 257

§ 34.85 FUND 257.

(A) The town establishes the Fund 257.

(B) Seventy-five percent shall be placed into Fund 257 and used for local road and streets budgeted for budget year 2017; and

(C) Twenty-five percent shall be placed into the town's Rainy Day Fund.
(Ord. 2016-05, passed 6-6-2016)

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

Section

35.01	Establishment	Violations Clerk for purposes of this chapter.
35.02	Violations Clerk designated	(I.C. 33-36-2-2)
35.03	Duties of Clerk	<i>Cross-reference:</i>
35.04	Schedule of fines	<i>Town Clerk to be Town Fiscal Officer, see</i>
35.05	Right to trial	<i>§ 32.003</i>
35.06	Denial; exercise of the right to trial	
35.07	Failure to appear or to satisfy assessed civil penalty; report; prosecution	
35.08	Court costs fee; admitted violations	
35.09	Disposition of civil penalties and costs collected	
35.10	Litigation to enforce ordinances	

§ 35.03 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 legislative body, but not more than \$250.
(I.C. 33-36-2-3)

§ 35.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.
(I.C. 33-36-2-1)

§ 35.02 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 or 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 § 35.01, the Clerk or Clerk-Treasurer of the town is designated the

§ 35.04 SCHEDULE OF FINES.

(A) Upon the appointment or designation of the Violations Clerk as provided by § 35.01, 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)

§ 35.05 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 § 35.04.
(I.C. 33-36-3-2)

§ 35.06 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)

§ 35.07 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)

§ 35.08 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. 33-37-7-5 or I.C. 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.
(I.C. 33-36-3-6)

§ 35.09 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.
(I.C. 33-36-3-7)

§ 35.10 LITIGATION TO ENFORCE ORDINANCES.

In the event the town institutes litigation to enforce any of the ordinances that are a part of this Ordinance Violations Bureau, if the town prevails, it is entitled to recover, in addition to any fine imposed, court costs and costs of litigation including a reasonable attorney fee.

CHAPTER 36: TOWN POLICIES

Section

Tort Claims Against Town

- 36.01 Clerk-Treasurer to receive notice
- 36.02 Form and service of notice

Anti-Nepotism Policy

- 36.15 Exclusions
- 36.16 Definitions
- 36.17 Employment of relatives
- 36.18 Contracting practices with relatives

TORT CLAIMS AGAINST TOWN

§ 36.01 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.

§ 36.02 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.

ANTI-NEPOTISM POLICY

§ 36.15 EXCLUSIONS.

(A) An individual who is employed by the town on July 1, 2012, is not subject to these policies unless the individual has a break in employment with the town. Breaks in employment do not include the following:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick or family medical leave, or worker's compensation.

(2) The individual's employment with the town is terminated followed by immediate re-employment by the town, without loss of payroll time.

(B) These policies do not apply to performance of duties as a:

(1) Precinct election officer as defined in I.C. 3-5-2-40.1; or

(2) Volunteer firefighter.

(C) An employment contract with the town is not abrogated or affected that:

(1) An individual is a party to; and

(2) Is in effect on the date the individual's relative begins serving a term of an elected office of the town.

(Res. 2012-2, passed 6-4-2012)

§ 36.16 DEFINITIONS.

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

DIRECT LINE OF SUPERVISION. An elected official or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a town, as provided by law, to make decisions regarding salary ordinances, budgets or personnel policies of the town.

ELECTED OFFICIAL.

- (a) The Town Clerk;
- (b) A member of the Town Council.

EMPLOYED. An individual who is ***EMPLOYED*** by the town on a full-time, part-time, temporary, intermittent or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the town.

MEMBER OF THE POLICE DEPARTMENT. The Town Marshal or a police officer appointed to the Department.

RELATIVE. Any of the following:

- (a) A spouse;
- (b) A parent or stepparent;
- (c) A child or stepchild;
- (d) A brother, sister, stepbrother or stepsister;
- (e) A niece or nephew;

(f) An aunt or uncle; or

(g) A daughter-in-law or son-in-law.

An adopted child of an individual is treated as a natural child of the individual. The terms "brother" and "sister" include a brother or sister by the half blood.

TOWN. The Town of Dayton, Indiana.
(Res. 2012-2, passed 6-4-2012)

§ 36.17 EMPLOYMENT OF RELATIVES.

(A) An individual who is a relative may not be employed by the town in a position that results in one relative being in the direct line of supervision of the other relative.

(B) With regard to an individual who:

(1) Is employed by the town on the date the individual's relative begins serving a term of an elected office of the town; and

(2) Is not exempt from the application of this statute;

the individual may remain employed by a town and maintain the individual's position or rank, even if the individual's employment would violate the prohibition against one relative being in the direct line of supervision of the other relative.

(C) The individual described above in division (B) may not:

(1) Be promoted to a position; or

(2) Be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department;

if the new position would violate the prohibition against one relative being in the direct line of supervision of the other relative.
(Res. 2012-2, passed 6-4-2012)

§ 36.18 CONTRACTING PRACTICES WITH RELATIVES.

(A) The town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) An individual who is a relative of an elected official; or

(2) A business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements below are satisfied and the elected official does not violate I.C. 35-44.1-1-4.

(B) The town may enter into a contract or renew a contract with an individual or business entity described in division (B) above if:

(1) The elected official files with the unit a full disclosure, which must:

(a) Be in writing;

(b) Describe the contract or purchase to be made by the town;

(c) Describe the relationship that the elected official has to the individual or business entity that contracts or purchases;

(d) Be affirmed under penalty of perjury;

(e) Be submitted to the legislative body of the town and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and

(f) Be filed, not later than 15 days after final action on the contract or purchase, with:

1. The State Board of Accounts;

and

2. The clerk of the circuit court in the county where the unit takes final action on the contract or purchase;

(2) The appropriate agency of the unit:

(a) Makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(b) Makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) The unit satisfies any other requirements under I.C. 5-22 or I.C. 36-1-12.

(C) An elected official must also comply with the disclosure provisions of IC 35-44.1-1-4, if applicable.

(D) These provisions do not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

(Res. 2012-2, passed 6-4-2012)

CHAPTER 37: ELECTIONS

Section

Wards and Districts

- 37.01 Wards
- 37.02 Boundaries
- 37.03 Ward map

Elections

- 37.15 Election of Town Council members

Effective

- 37.25 Effective date

WARDS AND DISTRICTS

§ 37.01 WARDS.

The number of wards in the town is hereby fixed at two.

(Prior Code, § 32.01) (Ord. 71-4, passed 6-7-1971; Ord. 82-15, passed 12-6-1983; Ord. 92-4, passed 12- -1992; Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

§ 37.02 BOUNDARIES.

The Town of Dayton, Indiana, pursuant to I.C. 36-5-2-4.1, is hereby divided into the following election districts and wards, having the following boundaries. All boundaries where streets or alleys are used shall be to the centerline of the street, alley or railroad tracks.

(A) *Ward 1.*

Commencing at the intersection of SR 38, being Walnut Street, and Shakamak Court, thence north on Shakamak Court to its intersection with College Street; thence east on College Street to its intersection with Conjunction Street; thence north on Conjunction Street to its intersection with Cagles Mill Drive; thence following Cagles Mill Drive west and south to its intersection with Shakamak Court; thence following Shakamak Court north and west to the northern most boundary of the Town of Dayton; thence following the boundary line of the Town of Dayton east to the eastern most boundary of the Town of Dayton; thence following the boundary line south, east, and west to its intersection with Dayton Road; thence following Dayton Road north to its intersection with SR 38 at the place of beginning.

(B) *Ward 2.*

Commencing at the intersection of Dayton Road with the southern most boundary of the Town of Dayton, thence north on Dayton Road to its intersection with College Street; thence east on College Street to its intersection with Conjunction Street; thence north on Conjunction Street to its intersection with Cagles Mill Drive; thence following Cagles Mill Drive south and

west to its intersection with Shakamak Court; thence following Shakamak Court north and west to its intersection with the northern most boundary of the Town of Dayton; thence following the boundary line west, south and east to the place of beginning.

(Prior Code, § 32.01) (Ord. 71-4, passed 6-7-1971; Ord. 75-2, passed - -1975; Ord. 75-8, passed 9-8-1975; Ord. 82-15, passed 12-6-1983; Ord. 92-4, passed 12- -1992; Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

EFFECTIVE

§ 37.25 EFFECTIVE DATE.

The ordinance codified herein shall be effective on January 1 following its adoption, being 1-1-2011. (Ord. 2010-21, passed 10- -2010)

§ 37.03 WARD MAP.

A map of the ward boundaries as above set forth in § 37.02 is incorporated by reference hereby, and a copy of same is on file with the Town Clerk.

(Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

ELECTIONS

§ 37.15 ELECTION OF TOWN COUNCIL MEMBERS.

(A) One member of the Town Council shall be elected from each ward by the voters of the ward in which the member resides and three members of the Town Council shall be elected at large by the voters of the whole Town.

(B) Seat 1 of the Town Council shall be elected from Ward 1, Seat 2 shall be elected from Ward 2, and Seats 3, 4 and 5 shall be elected at large.

(Ord. 02-11, passed 10-7-2002; Ord. 2010-21, passed 10- -2010)

TITLE V: PUBLIC WORKS

Chapter

- 50. GENERAL PROVISIONS**
- 51. GARBAGE**
- 52. WATER**
- 53. SEWERS**
- 54. STORMWATER MANAGEMENT**

CHAPTER 50: GENERAL PROVISIONS

Section

- 50.01 Acceptance of credit and debit cards
for payment

§ 50.01 ACCEPTANCE OF CREDIT AND DEBIT CARDS FOR PAYMENT.

The town will accept payment by credit card or bank card for water, sewage and trash services and for meter deposits owed the town. For purposes of this section, ***CREDIT CARD*** shall include debit card, charge card or stored value card. Any charge to the town for use of the credit card or bank card by the payor will not be collected from the payor.
(Ord. 09-02, passed 4-6-2009)

CHAPTER 51: GARBAGE

Section

- 51.01 Definitions
- 51.02 Container required
- 51.03 Container out of sight
- 51.04 Container required for solids
- 51.05 Solids containers must be kept out of sight
- 51.06 Waste must be covered
- 51.07 Visible waste restricted
- 51.08 Keeping on property of another prohibited
- 51.09 Hauling
- 51.10 Solid waste collection and disposal

- 51.99 Penalty

§ 51.01 DEFINITIONS.

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

GARBAGE. Kitchen and table refuse from cooking, processing, preparing and serving human foods and drinks, any vegetable or animal matter abandoned by the prior possessor thereof or intended by the possessor for disposal, every accumulation vegetable and animal matter that attends the preparation, keeping, dealing in or storage of meats, fish, seafoods, fowl, birds, vegetable, milk or other substance that can be used as human food and intended for disposal other than by human consumption at the time of the disposal. **GARBAGE** shall not include any dishwater or waste water.

GARBAGE CONTAINER. A metal or plastic can or container with suitable cover so as to prevent the escape of any odor therefrom. A plastic bag designed for disposal of garbage which does not permit the escape of any odor therefrom. Any metal or plastic can or container without suitable cover or broken plastic bag shall not be considered a **GARBAGE CONTAINER**.

PERSON. Includes an individual, corporation, partnership or any other legal entity.

SOLIDS. Stone, sand, dirt, gravel, brickbats, broken dishes, bottles, cans, pottery, old iron, junk metals, plastics and all other substances of a permanent nature and as such are not subject to speedy decay or the generation of noxious and offensive odors. Any of the above items disposed of in the same container as garbage or mixed therewith shall be considered garbage.

SOLIDS CONTAINER. Any container of a size that can be lifted and carried by one person and of sufficient size to hold all the solids placed therein below the top level of the container.

WASTE. Broken or cut down trees, tree limbs, brushy shrubs and the trimmings therefrom, leaves, old rags, paper sweepings, wooden or paper boxes, crates, sacks and all other debris and accumulation of waste from dwelling or business establishment as are not within the definition of garbage or solids.
(Prior Code, § 53.01) (Ord. 79-5, passed 6-4-1979)

§ 51.02 CONTAINER REQUIRED.

It shall be unlawful for any person to place or deposit any garbage outside of any residential or business establishment or upon any right-of-way adjacent thereto, unless same is within a garbage container.

(Prior Code, § 53.02) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.03 CONTAINER OUT OF SIGHT.

It shall be unlawful for any person to keep a garbage container, with or without garbage therein, on the property occupied or used by the person, where the container can be seen from the street fronting the property, or on the right-of-way adjacent thereto for a period of more than 24 hours following garbage pickup.

(Prior Code, § 53.03) (Ord. 79-5, passed 6-4-1979;
Ord. 16-2, passed 5-2-2016) Penalty, see § 51.99

§ 51.04 CONTAINER REQUIRED FOR SOLIDS.

It shall be unlawful for any person to place or deposit any solids outside of a residential or business establishment or upon any right-of-way adjacent thereto, unless same is in a garbage or solids container.

(Prior Code, § 53.04) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.05 SOLIDS CONTAINERS MUST BE KEPT OUT OF SIGHT.

It shall be unlawful for any person to keep a solids container on the property occupied or used by the person, where the container can be seen from the street fronting the property, or on the right-of-way adjacent thereto, for a period of more than 24 hours following garbage pickup.

(Prior Code, § 53.05) (Ord. 79-5, passed 6-4-1979;
Ord. 16-2, passed 5-2-2016) Penalty, see § 51.99

§ 51.06 WASTE MUST BE COVERED.

It shall be unlawful for any person to keep waste outside of a residential or business establishment without cover therefore where the waste is susceptible to being blown by the wind from the place deposited. (Prior Code, § 53.06) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.07 VISIBLE WASTE RESTRICTED.

It shall be unlawful for any person to keep any waste on the property occupied or used by the person, where the waste can be seen from the street fronting the property, or in the right-of-way adjacent thereto, for a period or more than five successive days.

(Prior Code, § 53.07) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.08 KEEPING ON PROPERTY OF ANOTHER PROHIBITED.

It shall be unlawful for any person to place, deposit or keep any garbage, garbage container, solids, solid containers or waste on any public street or alley within the town or on any property not then and there occupied or used by the person.

(Prior Code, § 53.08) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.09 HAULING.

It shall be unlawful for any person to transport, carry or haul any garbage, solids or waste over any street, alley or other public way or place except in closed or covered trucks designed to prevent any garbage, solid or waste to be blown therefrom, to drop therefrom, or to permit offensive or noxious odors to escape therefrom when loaded.

(Prior Code, § 53.09) (Ord. 79-5, passed 6-4-1979)
Penalty, see § 51.99

§ 51.10 SOLID WASTE COLLECTION AND DISPOSAL.

(A) The town shall provide solid waste collection and disposal to the citizens of the town.

(B) The service shall be provided to the incorporated area to the town.

(C) Service shall be provided by contracting with an outside contractor.

(D) The charge for the monthly service will be fixed by the Town Council from time to time. The charge shall be billed separately even though it is established as a service of the sewage utility.

(E) The method of payments for user charges shall be monthly due on the last day of each month with the payments to be made to the Clerk-Treasurer of the town.

(F) Penalty shall be assessed in the amount of 10% for late payments.

(G) Revenues shall be restricted to the amount reasonably related to the cost of providing this service. An accounting shall be so that documentation will be provided so as to comply with all statutes and regulations.

(Ord. 98-3, passed 3-23-1998; Ord. 06-05, passed 6-5-2006)

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person who does any act done in violation of §§ 51.01 through 51.09 shall be punished by a fine not to exceed \$300. Every day any violation of §§ 51.01 through 51.09 shall continue shall constitute a separate offense.

(Prior Code, § 53.10) (Ord. 79-5, passed 6-4-1979)

CHAPTER 52: WATER

Section

<i>Water Utility</i>	
52.01	Definitions
52.02	Required use
52.03	Construction of lateral service
52.04	Separate service laterals
52.05	Tapping city supply
52.06	Tap permit
52.07	Water meters
52.08	Connection to private supply
52.09	Swimming pool recirculation
52.10	Additions to conduit pipes and stopcocks
52.11	Stopcock box not to be concealed
52.12	Maintenance of service laterals
52.13	Inspection of premises
52.14	Disconnection
52.15	Use of fireplugs
52.16	Additions to waterworks
52.17	Rates and charges
52.18	Withdrawal from jurisdiction of State Utility Regulatory Commission

Backflow Prevention

52.30	Responsibility
52.31	Definitions
52.32	Water system requirements
52.33	Compliance
52.34	Inspection
52.35	Discontinuation of service
52.36	Installation of backflow prevention assembly
52.37	Type of protective assembly
52.38	Approval of backflow prevention assembly
52.39	Adoption of standards by reference

52.40	Duty to test and repair
52.41	Exemptions
52.42	Certification of testers
52.99	Penalty

WATER UTILITY

§ 52.01 DEFINITIONS.

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

BOARD. The Utility Service Board of the town.

CLERK-TREASURER. The duly qualified and acting **CLERK-TREASURER** of the town.

OWNER. The record owner of a tract of real estate as shown by the records of the Auditor of the county, which tract of real estate is served or is required to be served as a user or users.

PERSON. An individual, firm, company, partnership, corporation, association, society, institution, enterprise, governmental agency or other entity.

PRIVATE SUPPLY. Any individual, industrial, commercial or private water system.

SERVICE LATERAL. The water main that transmits water from the town conduit main located in a public easement or right-of-way, through the owner's property to its point of use.

SUPERINTENDENT. The person or persons appointed by the Utility Service Board, including a designated member of the Board, to manage the day to day physical operation of the waterworks.

TOWN SUPPLY. The water system of the town waterworks.

USER. An individual residential, commercial or industrial structure or unit which obtains water or is served with water from the town waterworks.

WATERWORKS. The water system of the town including separately and collectively all wells, pumps, building, pits and transmission and conduit mains that are used to obtain water from the ground and transmit same to the user.
(Prior Code, § 52.01)

§ 52.02 REQUIRED USE.

The owner of all real estate which is adjacent to a conduit main of the waterworks, upon which real estate is located a residential, commercial, industrial or other buildings used for human occupancy, employment or recreation is hereby required to connect by a service lateral to the town waterworks. It shall be a violation of this subchapter not to make the connection required herein 90 days after written notice to do so has been given to the owner by the town.
(Prior Code, § 52.02) Penalty, see § 52.99

§ 52.03 CONSTRUCTION OF LATERAL SERVICE.

The size, shape, alignment, materials of construction of service laterals and the method used in excavating, placing the pipe, jointing, testing and

backfilling the trench shall conform to the requirement of the building and plumbing codes and other applicable rules and regulations of the town.
(Prior Code, § 52.03)

§ 52.04 SEPARATE SERVICE LATERALS.

A separate and independent service lateral shall be provided for each user, except where approval is otherwise given by the Board where multiple units are placed under a common and integral roof.
(Prior Code, § 52.04)

§ 52.05 TAPPING CITY SUPPLY.

Except upon application and permit as herein provided for, it shall be unlawful for any person, except the Superintendent of the waterworks and those employed by him or her or by the Board, to tap or make any connection with the city supply, nor shall any person make, establish or maintain any physical connection with any private supply.
(Prior Code, § 52.05) Penalty, see § 52.99

§ 52.06 TAP PERMIT.

(A) Prior to making any tap into the conduit mains of the town or connecting any service lateral thereto, the owner or his or her agent shall make application therefore to the town upon forms furnished therefor. The application shall be accompanied by plans, specifications, plat plan showing the location of the service lateral and point of connection to the waterworks, and any additional information that the Board or Superintendent may require. Except for owners in Prestwick Manor subdivision, a connection fee in the amount of \$400 for a tap of five-eighths-inch diameter shall be paid to the Clerk-Treasurer at the time the application is filed. If the tap is greater than five-eighths inches, the fee shall be the cost of time and material in addition to \$400. A permit and inspection fee of \$25 shall be paid to the Clerk-Treasurer at the time the application is filed. In

addition the owner shall pay to the Clerk-Treasurer the sum of \$35 as deposit for use as hereinafter provided. The Superintendent shall issue the permit within seven days of filing of the application, or within the time notify the owner or his or her agent what is additionally required before the permit will be issued.

(B) The connection to the town waterworks shall conform to the requirements of the building and plumbing code, any conditions on the permit, and other applicable rules and regulations of the town.

(C) The owner or his or her agent shall notify the Superintendent or the Clerk-Treasurer prior to covering any excavation when the connection is ready to be made. The connection shall be under the supervision of the Superintendent, who shall also inspect the service lateral and approve same.

(D) All excavations for service lateral shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Prior Code, § 52.06) (Ord. 96-11, passed 12-9-1996)

§ 52.07 WATER METERS.

(A) The owner shall install a water meter in the service lateral at a point adjacent to the conduit main as determined by the Superintendent. The meter shall be furnished by the town and shall remain the property of the town.

(B) In Prestwick Manor subdivision, meters shall be furnished by the owner but become the property of the town.

(C) A meter shall be installed for each user, unless in those instances where there are multiple users or units placed under a common and integral roof, in which case the Board may approve one or more meters for more than one user.

(D) The town shall maintain all meters in good working order; however, any damage caused to meters, other than damage caused by the town or its agents or employees or by normal wear and tear, shall be chargeable to the owner, and the cost and expense of repairing the damage shall be paid by the owner. (Prior Code, § 52.07) (Ord. 89-1, passed 7-10-1989)

§ 52.08 CONNECTION TO PRIVATE SUPPLY.

No person shall establish or maintain any physical connection of the town supply with any private supply.

(Prior Code, § 52.08) Penalty, see § 52.99

§ 52.09 SWIMMING POOL RECIRCULATION.

No person shall establish or maintain any physical connection of the city supply with any swimming pool recirculation system.

(Prior Code, § 52.09) Penalty, see § 52.99

§ 52.10 ADDITIONS TO CONDUIT PIPES AND STOPCOCKS.

It shall be unlawful for an owner whose premises are connected with the town supply to make or allow to be made any addition in or about any conduit pipes or stopcocks on the premises, unless the same is by permission and under the direction of the Superintendent.

(Prior Code, § 52.10) Penalty, see § 52.99

§ 52.11 STOPCOCK BOX NOT TO BE CONCEALED.

It shall be unlawful for any person, in paving or relaying sidewalks, to pave over and conceal the stopcock boxes attached to service laterals, but in every instance where it is desired to raise the grade of the sidewalks above the top of the stopcock boxes,

notice shall be given by the owner of the premises to the Superintendent in order that he or she may lengthen the stopcock box to conform with the new grade.

(Prior Code, § 52.11) Penalty, see § 52.99

§ 52.12 MAINTENANCE OF SERVICE LATERALS.

(A) After a service lateral has been connected into the conduit main and the connection has been approved by the Superintendent, it shall become the responsibility of the town to service, maintain and make necessary repairs to the service lateral from its connection with the conduit main up to the stopcock box and to the stopcock box. However, any damages caused to the stopcock box, other than damage caused by the town or its agents or employees or by normal wear and tear, shall be chargeable to the owner and the cost and expense of repairing the damage shall be paid by the owner.

(B) It shall be the responsibility of the owner to service, maintain and make necessary repairs to the service lateral from the stopcock box to its point of use. Any damage to the portion of the service lateral running from the stopcock box to its point of use shall be immediately repaired by the owner. All repairs shall be inspected and approved by the Superintendent. In the event that the owner fails to make the immediate repairs, the town shall perform same and the cost and expense of the repairs shall be chargeable to and paid by the owner.

(Prior Code, § 52.17) (Ord. 89-1, passed 7-10-1989)

§ 52.13 INSPECTION OF PREMISES.

Every person whose premises are connected with the town supply shall, at all reasonable times, permit the Superintendent and all persons employed by the Board to enter in and upon the premises to examine the pipes and apparatus thereon, and the manner in which water is used on the premises.

(Prior Code, § 52.12)

§ 52.14 DISCONNECTION.

Upon the failure of any owner to pay any charges or fees made payable under the subchapter within 30 days of the date the charge or fee is due, the Board, in addition to any other remedy provided for herein, may direct the Superintendent to disconnect the delinquent owner from the town supply, and may impose any conditions it deems reasonable on reconnecting. Prior to making any disconnection, the Clerk-Treasurer shall give a written ten-day notice of the ordered disconnection by registered mail to the owner at the address given on the records of the County Auditor, or other address theretofore given by the owner. It shall be unlawful for any person upon whose premises the town supply is used, after the water has been shut off or disconnected from the premises, to let on the water or to let the water run from his or her hydrants, or to authorize, cause, suffer or permit the water to be let on, unless the same is done by or under the direction of the Superintendent.

(Prior Code, § 52.13)

§ 52.15 USE OF FIREPLUGS.

(A) A rental fee of \$234 per year shall be paid to the Water Utility for each fire hydrant once the hydrants are connected to the town's water system supplied by the City of Lafayette.

(B) It shall be unlawful for any person to open any fireplug appurtenant to the waterworks or to draw water therefrom, excepting the Superintendent and persons under his or her direction, and the Chief of any fire department serving the town, and the members thereof under his or her direction, and for the purpose of extinguishing fire or for cleaning their engines or hoses or for the purpose of making trials of their engines or equipment at a meeting of the company having charge of the engines. Nothing herein shall permit the fire departments to fill any water tanks or tankers.

(Prior Code, § 52.14) (Ord. 96-11, passed 12-9-1996) Penalty, see § 52.99

§ 52.16 ADDITIONS TO WATERWORKS.

(A) No additions to the waterworks shall be made or accepted as part of the waterworks, by the Board nor shall there be any responsibility on the part of the town or Board to repair or maintain same, unless the additions are made in accordance with this section.

(B) A person desiring to make an addition to the waterworks shall present to the Board his or her request for the addition and advise the Board of the needs to be served by the addition. The Board may reject the request, or may require the applicant to hire an engineer selected by the Board to provide the Board with a detailed study on the then capacity and pressure of the waterworks and an engineering report on the capacity and pressure if the addition to the waterworks were made. The Board can further require detailed plans and specifications. If the Board is satisfied that the addition can be made without adverse effect on the then present users, the Board may approve the addition.

(C) Water mains shall be constructed and installed within the rights-of-way of dedicated public streets, dedicated public alleys or dedicated public easements of the width as the Board shall approve. The water mains shall not occur under the portion of public streets used for vehicle travel, nor shall they occur under any concrete or bituminous pavement of streets or sidewalks, except those portion of mains which shall pass transversely thereunder and in direction perpendicular to the direction of travel upon the pavement; provided that the transverse portions of mains shall not include any service tap, service lateral, valve, connection to another main, change in direction or change of pipe size. Water mains and the appurtenances thereto may occur under the traveled portion or paved portion of any alley.

(Prior Code, § 52.15)

§ 52.17 RATES AND CHARGES.

There are hereby established for the use of and the service rendered by the waterworks of the town the following rates and charges.

(A) There is hereby fixed a minimum monthly charge for each residential user of \$29.75, for which the user will be entitled to 3,000 gallons of water per month. In addition to the monthly minimum charge, a residential user shall pay \$9.96 per 1,000 gallons or any part thereof from 3,000 to 10,000 gallons; an additional \$4.99 per 1,000 gallons or any part thereof from 10,000 to 15,000 gallons; and an additional \$1.65 per 1,000 gallons or any part thereof over 15,000 gallons.

(B) Until a time as an owner is connected to the waterworks pursuant to § 52.02 and assessed costs as set forth in division (A) above, the owner shall be charged the fixed rate of \$12.66.

(C) Where the Board has authorized one meter for multiple users or units, then the owner shall pay a minimum charge for each unit served by the meter, and shall be entitled thereby to the gallonage usage provided in division (A) above, times the number of users or units. The excess gallonage usage as provided for in division (B) above shall apply thereafter to the one meter.

(D) If an owner requests the Superintendent or the Board to disconnect his or her water, then no minimum charge shall accrue or become payable until the owner requests the Superintendent to reconnect and the reconnection is made. The owner shall pay a fee of \$25 to the Clerk-Treasurer each time the water is disconnected and a fee of \$25 to reconnect.

(E) All owners shall, prior to connection with the waterworks and town supply, pay to the Clerk-Treasurer a deposit for each meter. The water meter deposit shall be \$125, with \$75 payable upon having the water service turned on, and with the remaining \$50 due 30 days thereafter. The deposits shall be deposited in a waterworks account specifically for deposits of owners. Upon action by the Board to disconnect service pursuant to § 52.14 for delinquent payment of charges or fees, the Board may direct the Clerk-Treasurer to withdraw the owner's deposit and credit it to the delinquent charges. Before service can thereafter be reconnected, a new deposit must be paid.

(F) All services provided by the waterworks shall be for the owner, and all charges and fees herein provided for shall be billed and charged to the owner and same shall be the owner's obligation. Billings shall be made by the Clerk-Treasurer on a monthly basis and shall be mailed by the Clerk-Treasurer to the owner at the address on file at the County Auditor's office or another address as the owner may in writing give to the Clerk-Treasurer.

(G) All bills for water service not paid within 15 days from the due date thereof, as stated in the bill, shall be subject to a collection or deferred payment charge of 10%.

(H) There shall be and there are hereby established for those customers having private fire protection sprinklers the following annual rates and charges.

<i>Size</i>	<i>Charge</i>
1-1/2-inch line	\$166.70
2-inch line	\$194.40
2-1/2-inch line	\$249.90
3-inch line	\$305.40
4-inch line	\$388.80
5-inch line	\$583.10
6-inch line	\$777.30
8-inch line	\$1,666.00
10-inch line	\$2,082.40

(I) (1) A tenant/owner of property in the town whose account is 30 days or more in arrears and with a balance of \$25 or more will be subject to a temporary disconnection of service on the first day of the following month. This disconnection will be subject to a \$25 reconnection fee once the arrears are paid in full. The arrears must be paid by cash, money order, cashier's check or credit card only.

(2) Reconnection of water service shall not be authorized by any person, other than the Town Utility Clerk or Deputy Utility Clerk, once all the arrears are paid in full.

(Prior Code, § 52.18) (Ord. 96-11, passed 12-9-1996; Ord. 98-12, passed 10-23-1998; Ord. 00-04, passed 2-7-2000; Ord. 00-06, passed 4-3-2000; Ord. 06-02, passed 2-6-2006; Ord. 2010-11, passed - -2010; Ord. 11-5, passed 3-7-2011; Ord. 12-2012, passed 12-27-2012)

§ 52.18 WITHDRAWAL FROM JURISDICTION OF STATE UTILITY REGULATORY COMMISSION.

The Town Water Utility is withdrawn from the jurisdiction of the State Utility Regulatory Commission.

(Ord. 95-4, passed 5-8-1995)

BACKFLOW PREVENTION

§ 52.30 RESPONSIBILITY.

The Town Water Utility shall be responsible for the protection of the public potable water distribution system from contaminants or pollutants through the water service connection. If, in the judgment of the Town Water Utility an approved backflow prevention assembly is required as defined by 327 I.A.C. 8-10, Rule 10 (at the customer's water service connection; or, within the customer's private water system) for the safety of the water system, Town Water Utility shall give notice in writing by mail to the customer to install an approved backflow prevention assembly(s) at specific locations(s) on their premises. The consumer shall install an approved assembly(s) at the consumer's own expense; and failure, refusal or inability on the part of the customer to install, have

tested and maintain the assembly(s) shall constitute a grounds for discontinuing water service to the premises until the requirements have been satisfactorily met.

(Ord. 01-08, passed 9-10-2001)

§ 52.31 DEFINITIONS.

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

AIR-GAP. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing, fixture or other device and the flood level rim of the vessel. An approved **AIR-GAP** shall be at least double the diameter of the supply pipe, measured vertically, above the overflow rim of the vessel; and in no case less than one inch.

APPROVED. Accepted by the Town Water Utility as meeting an applicable specification stated or cited in this subchapter, or as suitable for the proposed use.

AUXILIARY WATER SUPPLY. Any water supply on or available to the premises other than the utility's approved public water supply. These **AUXILIARY WATERS** may include water from another utility's public potable water supply or any natural source(s) such as a well, spring, river, stream and the like, or used waters or industrial fluids. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the Water Utility does not have sanitary control.

BACKFLOW. The reversal of the normal flow of water caused by either backpressure or backsiphonage.

BACKFLOW PREVENTER. An approved assembly or means designed to prevent backflow.

BACKPRESSURE. The flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water supply system from any source or sources other than the intended source.

BACKSIPHONAGE. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply caused by the reduction of pressure in the potable water supply system.

CONTAMINATION. An impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

CROSS-CONNECTION. Any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other nonpotable water or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system.

CROSS-CONNECTION CONTROL BY CONTAINMENT. The installation of an approved backflow prevention assembly at the water service connection to any customer's premises where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection.

CROSS-CONNECTIONS CONTROLLED. A connection between a potable water system and a nonpotable water system with an air-gap or approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

DEGREE OF HAZARD. An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

DOUBLE CHECK VALVE ASSEMBLY. An assembly of two independently operating, approved check valves with resilient seated shut-off valves on each end of the check valves, plus properly located resilient seated test cocks for testing of each check valve. The entire assembly shall meet the design and performance specifications as determined by a laboratory and field evaluation program resulting in an approval by a recognized and Town Water Utility approved testing agency for backflow prevention assemblies. To be approved, these assemblies must be readily accessible for in-line testing and maintenance. Confined space installations will not be accepted.

HEALTH HAZARD. Any condition, device or practice in the water supply system and its operation, which could create, or in the judgment of the Town Water Utility, may create a danger to the health and well being of the water consumer.

INDUSTRIAL FLUIDS SYSTEM. Any system containing a fluid or solution, which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration as would constitute a health, system, pollutional or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of processed waters and used water originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalines, circulating cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, irrigation canals or systems and the like; oils, gases, glycerin, paraffin, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for firefighting purposes.

NONPOTABLE WATER. Water which is not safe for human consumption or which is of questionable potability.

PLUMBING HAZARD. A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by an approved air-gap or approved backflow prevention assembly.

POLLUTION. The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the waters for domestic use.

POLLUTION HAZARD. An actual or potential threat to the physical water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

POTABLE WATER. Any water which, according to recognized standards, is safe for human consumption.

REDUCED PRESSURE PRINCIPAL ASSEMBLIES. An assembly of two independently acting approved check valves together with a hydraulically operating, mechanically independent differential pressure relief valve located between the check valves and at the same time, below the first check valve, the unit shall include properly located resilient seated test cocks and resilient seated shut-off valves at each end of the assembly. The entire assembly shall meet the design and performance specifications as determined by a laboratory and a field evaluation program resulting in an approval by a recognized and Town Water Utility approved testing agency for backflow prevention assemblies. The assembly shall operate to maintain the pressure in the zone between the check valves at an acceptable level less than the pressure on the public water supply side of the assembly. At cessation of a normal flow, the pressure between the two check valves shall be less

than the pressure on the public water supply side of the assembly. In case of leakage of either of the check valves, the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved, these assemblies must be readily accessible for in-line testing and maintenance and be installed in a location where no part of the assembly will be submerged. Confined space installations will not be approved.

SUPERINTENDENT. The Superintendent of the Water Utility of the town who is vested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this subchapter.

SYSTEM HAZARD. An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted affect on the quality of the potable water in the system.

USED WATER. Any water supplied by a Water Utility from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the Water Utility.

WATER SERVICE CONNECTION. The terminal end of a service connection from the public potable water system; i.e., where the Water Utility loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. If a meter is installed at the end of the service connection, then the ***SERVICE CONNECTION*** shall mean the downstream end of the meter, provided the meter is installed outside of a building; i.e., in a meter pit or vault. If the meter is installed inside a building, then the Water Utility's jurisdiction terminates at the downstream end of the outside shut-off valve to the water service. There should be no unprotected takeoffs from the service line ahead of any meter or ahead of any backflow prevention assembly.

SERVICE CONNECTION shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(Ord. 01-08, passed 9-10-2001)

§ 52.32 WATER SYSTEM REQUIREMENTS.

The water system shall be considered as made up of two parts: the utility system and the customer system.

(A) The utility system shall consist of the source facilities and the distribution system; and shall include all air-gaps or approved backflow prevention assemblies properly installed and maintained, up to the point where the customer's system begins. The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system. The distribution system shall include the network of mains used for the delivery of water from the source to the customer's system.

(B) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system which are utilized in conveying utility-delivered domestic water to points of use.

(Ord. 01-08, passed 9-10-2001)

§ 52.33 COMPLIANCE.

No water service connection to any premises shall be installed or maintained by the Town Water Utility unless the water supply is protected as required by state rules and regulations and this subchapter. Service of water to any premises may be discontinued by the Town Water Utility if a backflow prevention assembly required by this subchapter is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until the conditions or defects are corrected.

(Ord. 01-08, passed 9-10-2001)

§ 52.34 INSPECTION.

The customer's system should be open for inspection at all reasonable times to authorized representatives of the Town Water Utility to determine whether there exists cross-connections or other structural or sanitary hazards, including violations of this subchapter or regulations which are adopted through this subchapter.

(Ord. 01-08, passed 9-10-2001)

§ 52.35 DISCONTINUATION OF SERVICE.

When a violative condition becomes known, the Superintendent may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with the state statutes and town ordinances relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Ord. 01-08, passed 9-10-2001)

§ 52.36 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLY.

An approved backflow prevention assembly shall also be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist.

(A) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the Town Water Utility, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard

(B) In the case of premises on which any industrial fluids or any other objectionable substance is handled in a fashion as to create an actual or

public water system shall be protected by an approved

potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.

(C) The public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line or lines where potential hazards could exist in the case of premises having:

(1) Internal cross-connection that cannot be permanently corrected or controlled; or

(2) Intricate plumbing and piping arrangements or where entry to all portions of the premises are not readily accessible for inspection purposes, making it impractical or impossible to ascertain whether or not dangerous cross-connections exist.

(Ord. 01-08, passed 9-10-2001)

§ 52.37 TYPE OF PROTECTIVE ASSEMBLY.

The type of protective assembly required shall depend upon the degree of hazard which exists as follows.

(A) In the case of any premises where there is an auxiliary water supply, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly.

(B) In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

(C) In the case of any premises where there is any material dangerous to health as to create an actual or potential hazard to the public water system, the

air-gap separation or an approved reduced pressure

principle backflow prevention assembly. Examples of premises where these condition will exist include, but are not limited to sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

(D) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection.

(E) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly on each service to the premises.

(F) In the case of any premises having a lawn irrigation system, the public water system shall be protected by an approved pressure vacuum breaker backflow prevention assembly or an approved reduced pressure principle backflow prevention assembly.
(Ord. 01-08, passed 9-10-2001)

§ 52.38 APPROVAL OF BACKFLOW PREVENTION ASSEMBLY.

Any backflow prevention assembly required herein shall be a model and size approved by the Town Water Utility. The term **APPROVED BACKFLOW PREVENTION ASSEMBLY** shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association (AWWA) entitled *AWWA C506-84 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices*. The assembly shall meet the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCCC&HR) of the University of

Southern California established by Specifications of Backflow Prevention Assemblies § 10 of the most current issue of the *Manual of Cross-Connection Control*. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with the AWWA standards and FCCC&HR specifications.
(Ord. 01-08, passed 9-10-2001)

§ 52.39 ADOPTION OF STANDARDS BY REFERENCE.

The AWWA and FCCC&HR standards and specifications specifically referenced in § 52.38 are hereby adopted and incorporated herein by reference.
(Ord. 01-08, passed 9-10-2001)

§ 52.40 DUTY TO TEST AND REPAIR.

It shall be the duty of the customer/user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made upon installation and at least once per year. In those instances where the Town Water Utility Superintendent deems the hazard to be great enough, the Superintendent may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by a certified tester approved by the state and the Town Water Utility. It shall be the duty of the Town Water Utility to see that these tests are made in a timely manner. If a customer/user does not have its backflow prevention assembly tested within 30 days of notification, the Town Water Utility may discontinue water service to the premises to maintain the safety of the public water system. These assemblies shall be repaired, overhauled or replaced at the expense of the customer/user whenever the assemblies are found to be defective. Records of the tests, repairs and overhaul shall be kept and made available to the Town Water Utility.
(Ord. 01-08, passed 9-10-2001)

§ 52.41 EXEMPTIONS.

All presently installed backflow prevention assemblies which do not meet the requirements of this section that were approved devices for the purposes described herein at the time of installation and which have been properly maintained, shall be excluded from the requirement of these rules so long as the Town Water Utility is assured that they will satisfactorily protect the utility system. However, whenever the existing device is moved from the present location or requires more than the minimum maintenance or when the Town Water Utility finds that the assembly or its maintenance constitutes a hazard to health, the unit shall be replaced, at the consumer's expense, by an approved backflow prevention assembly meeting the requirement of this section.

(Ord. 01-08, passed 9-10-2001)

(B) *Backflow prevention.* Whoever violates any provision of §§ 52.30 through 52.42 for which no other penalty is otherwise specifically provided shall be fined not more than \$1,000. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 01-08, passed 9-10-2001)

§ 52.42 CERTIFICATION OF TESTERS.

Certified testers shall be listed with the Town Water Utility and shall provide proof of six contact hours annually of approved continuing education to the Town Water Utility. In addition, certified testers will provide proof that test gauges used in testing backflow prevention assemblies have been calibrated and certified annually.

(Ord. 01-08, passed 9-10-2001)

§ 52.99 PENALTY.

(A) *Water Utility.* The commission of any act prohibited by §§ 52.01 through 52.17, or the failure to make any payment due under §§ 52.01 through 52.17, or the doing of any act prohibited by the lawful orders or regulations of the Board or Superintendent or the failure to perform a lawful order or regulation of the Board or Superintendent shall be a punishable violation of this chapter for which the penalty shall be a fine of not less than \$10 nor more than \$100 to which may be added, in the case of willful act or omission, imprisonment not exceeding six months.

(Prior Code, § 52.19)

CHAPTER 53: SEWERS

Section

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CONNECTIONS TO PUBLIC SEWERS AND DRAINS

§ 53.01 DEFINITIONS.

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

APPROVAL BY THE BOARD OF PUBLIC WORKS. Approval by the Board of Public Works and Safety of the City of Lafayette to be in conformance to the Municipal Wastewater Service Agreement between the town and the City of Lafayette, dated 12-7-1976, and all addendas and amendments thereto.

BOARD or TOWN. The Town of Dayton, Indiana, the Town Council or the Utility Service Board of the town.

B.O.D. (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 milligrams per liter.

BUILDING OR HOUSE DRAIN. The lowest horizontal piping of the sanitary drainage system or the building drainage system inside the walls of any building, which receives the discharge from soil, waste stacks and other drainage pipes and branches and conveys the same from inside the walls to a point four feet outside the building walls where it connects with its respective building or house lateral sewer.

BUILDING OR HOUSE LATERAL SEWER.

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

COMPATIBLE POLLUTANTS. Wastewater having or containing:

(1) Measurable biochemical oxygen demand (B.O.D.);

(2) Suspended solids;

(3) pH;

(4) Fecal coliform bacteria; or

(5) Additional pollutants identified or defined in the town's national pollutant discharge elimination system permit or by the state or Board.

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

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

INCOMPATIBLE POLLUTANTS. Any pollutant which are not compatible pollutants.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

INSPECTOR. The person or persons, firm, association or corporation 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.

MAJOR CONTRIBUTOR. A contributor that:

(1) Has a discharge flow of more than 50,000 gallons per average workday;

(2) Has in its waste a toxic pollutant in toxic amounts as defined in § 307 of the Federal Water Pollution Control Act, Pub. L. No. 92-500, being 33 U.S.C. § 1317, and any amendments thereto;

(3) Has significant impact, either singly or in combination with other contributors, on the sewage system, wastewater treatment plant or the quality of the effluent from the wastewater treatment plant; or

(4) Is so determined by reason of the contract between the town and the City of Lafayette.

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

NUISANCE. Any substance which is injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property.

PERSON. Any individual, firm, company, association, society, corporation, group, school, partnership, trustee, limited liability company or municipality.

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 a 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 groundwater are not intentionally admitted.

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

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

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

SEWER. A pipe or conduit for carrying sewage.

SHALL. Is mandatory; **MAY** is permissive.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituted or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN. Sometimes termed **STORM SEWER.** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of the municipal sewage works of the town or the person, firm, association or corporation with whom the town has any contract for maintenance or management of the sewage works, 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.

USER. Any person that discharges, causes or permits the discharge of wastewater into the sewage system.

WASTE. Sanitary sewage and any other waste substance, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or

animal origin, or from any producing, processing, manufacturing or industrial operation of whatever nature, including the waste placed within containers of whatever nature prior to, and for the purpose of disposal.

WASTEWATER. The water carried waste from residences, business buildings, institution and industrial establishments, singular or in any combination, together with the ground, surface and stormwater as may be present.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Prior Code, § 50.01) (Ord. 78-6, passed 5-15-1978)

§ 53.02 CONNECTION TO SEWER.

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

(B) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any sewage 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 facility 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 on any street, alley or right-of-way in which there is now or hereafter is located a public

sanitary or combined sewer of the town, is hereby required at his or her expense to install suitable toilet

facilities therein, and to connect the 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 the public sewer is within 200 feet of the property line.

(Prior Code, § 50.02) (Ord. 78-6, passed 5-15-1978)
Penalty, see 53.99

§ 53.03 PRIVATE SEWAGE DISPOSAL SYSTEM.

(A) Where a public sanitary sewer is not available under the provisions of § 53.02, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for the permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$50 shall be paid to the town at the time the application is filed.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health and the Board of Health of the county. No permit shall be

issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than the requirements of the then current Unified Zoning Ordinance of the county and the town. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At a time as a public sewer becomes available to a property served by a private sewage disposal system as provided in division (D) above, 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 and filled with suitable material as provided in division (H) below of this section.

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

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

(H) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Prior Code, § 50.03) (Ord. 78-6, passed 5-15-1978)

§ 53.04 PERMITS AND CONSTRUCTION.

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

(B) (1) There shall be two classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$25 for a residential or commercial building sewer permit and \$100 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed. Commercial and industrial users shall supply the town with information about expected wastewater constituents and characteristics.

(C) A major contributor shall obtain a major contributor permit for a fee of \$150 and shall pay a like fee for each renewal at the time of making a request therefore.

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

(E) A separate and independent building or house lateral 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 or house lateral sewer.

(F) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this subchapter.

(G) The building sewer shall be cast iron soil pipe, ASTM A-74, latest revision; vitrified clay sewer pipe ASTM C-13, latest revision; asbestos-cement sewer pipe ASTM C-428, latest revision, or approved equal. Plastic pipe shall have the National Sanitation Foundation (NSF) label on the pipe barrel and the pipe

shall comply with Commercial Standards CS-272-65, or CS-270-65, or ASTM D-3034 and ASTM D-1784, or other pipe as the town may from time to time approve.

(H) The size and slope of the building sewer shall be subject to the approval of the Superintendent. In general, the building sewer shall be the same size as the service branch but in no event less than four inches in diameter. The slope of the four-inch building sewer shall not be less than 1.2% and the six-inch sewer not less than 0.6% slope.

(I) No building sewer shall be laid parallel to within three feet of any bearing wall which might thereby be weakened. The depth shall sufficient to provide a minimum of 18 inches of cover over the pipe. The building sewer shall be laid at uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

(J) Whenever possible, the building or house lateral sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building or house lateral sewer.

(K) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources or surface runoff or groundwater to a building or house lateral sewer or building or house drain which in turn is connected directly or indirectly to a public sanitary sewer.

(L) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the ASTM and W.P.C.F. *Manual of Practice No. 9*. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(M) The applicant for the building sewer permit shall notify the Inspector when the building or house lateral sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his or her representative.

(N) All excavations for building or house lateral sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(O) No person shall discharge any wastewater which will cause the town to violate any conditions of its NPDES permit.

(Prior Code, § 50.06) (Ord. 78-6, passed 5-15-1978; Ord. 79-1, passed 1-8-1979) Penalty, see § 53.99

§ 53.05 SURCHARGE FOR STRENGTH OF WASTE.

The town shall have the right to impose a surcharge for waste discharged into the sewerage system whose strength or character is so that the introduction of the waste into the sewerage system may cause additional costs to the system.

(Ord. 79-1, passed 1-8-1979)

§ 53.06 PROHIBITION ON DISCHARGE.

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

(B) Stormwater and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent to a storm sewer, combined sewer or natural outlet.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

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

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; and

(4) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

(D) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to the factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of

the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F (65°C);

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C);

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to a degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for the materials;

(6) Any waters or wastes containing phenols or other taste or odor-producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet the requirements of the City of Lafayette, state, federal or other public agencies of jurisdiction for the discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

(8) Any waters or wastes having a pH in excess of 9.0;

(9) Materials which exert or cause:

(a) Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(c) Unusual B.O.D., chemical oxygen demand or chlorine requirements in quantities as to constitute a significant load on the sewage treatment works; and

(d) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(E) (1) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D) above of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (J) below of this section.

(2) If the Superintendent permits the pretreatment or equalization of waste flows, and same has the approval of the Board of Public Works, the design and installation of the plans and equipment shall be subject to the review and approval of the Superintendent and the approval of the Board of Public Works and subject to the requirements of all applicable codes, ordinances and laws.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the Inspector and with the approval of the Board of Public Works they are necessary for the proper handling of liquid wastes, containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that the 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 the approval of the Board of Public Works and shall be located as to be readily and easily accessible for cleaning and inspection.

(G) Where preliminary treatment or flow-equalizing 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 and the approval of the Board of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The 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 wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, or as established by state or federally regulatory agencies and shall be determined at the control manhole provided, or upon suitable samples taken at the 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. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(J) No statement contained in this section shall be construed as preventing any special agreement or arrangement with the approval of Board of Public Works 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.

(K) No person shall discharge any substance directly into a manhole or other opening in the sewage system other than through the approved building or house lateral sewer, except in accordance with the terms of this subchapter or by expressed permission of the Board.

(Prior Code, § 50.09) (Ord. 78-6, passed 5-15-1978) Penalty, see § 53.99

§ 53.07 PROHIBITION OF DISCHARGE TO NATURAL OUTLETS.

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

(Ord. 79-1, passed 1-8-1979) Penalty, see § 53.99

§ 53.08 RIGHT TO PROHIBIT NEW CONNECTIONS.

The town shall have the right to prohibit new connections when the excess capacity of the sewerage system is deemed insufficient by the Board to accommodate the expected flow, B.O.D. and/or suspended solids loading from the prospective sewer user.

(Ord. 79-1, passed 1-8-1979)

§ 53.09 RIGHT TO REJECT WASTE.

The town shall have the right to reject waste and prohibit the introduction of rejected waste into the sewerage system, or the town may require pretreatment of the waste when the strength or character of the waste is so that it could cause damage to or interfere with the operation of the sewerage system.

(Ord. 79-1, passed 1-8-1979)

§ 53.10 TAMPERING.

No 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.

(Prior Code, § 50.10) (Ord. 78-6, passed 5-15-1978) Penalty, see § 53.99

§ 53.11 INSPECTION AND MONITORING.

(A) The Superintendent, Inspector and other duly authorized employees of the town or persons designated by the Board of Public Works and Safety of the City of Lafayette bearing proper credentials and identification shall be permitted upon notification to the user or responsible person in charge to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this subchapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Superintendent or duly authorized employees of the town or persons authorized thereunder shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the town's employees and the town shall indemnify the user against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 53.06.

(C) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Prior Code, § 50.11) (Ord. 78-6, passed 5-15-1978)

§ 53.12 MAJOR CONTRIBUTOR.

(A) All users shall provide the town with sufficient information to determine if they are major contributors. All users determined to be major contributors shall be required to obtain a permit that describes the wastewater constituents and characteristics allowed and sets forth the applicable surveillance schedule and the monitoring requirements they shall be subject to, in order to discharge to the sewerage system. A permit shall be valid for four years unless processing changes are made that, as determine by the town, alter the wastewater constituents and characteristics. In the event of a change, a new application shall be filed accordingly. A permit will be renewed without reapplication at the end of four years at the request of the user. No permit may be revoked, terminated or allowed to expire or lapse or not renewed at the request of the user by the town without 15-days' written notice. All surveillance and monitoring shall be at the cost of the user.

(B) Major contributor permits may not be sold, transferred, assigned and the like without the express written approval of the town.

(C) Nothing in a major contributor permit shall be construed as allowing an exception to the prohibitions and limitations on wastewater admissibility as set forth herein. Major contributors are subject to all applicable fees, rates and charges set forth in this subchapter.

(D) Major contributors shall make application for the proposed discharge on a form provided by the town. The permit application shall be supplemented by any plans, specifications, studies or other information considered pertinent by the town.

(Prior Code, § 50.12) (Ord. 78-6, passed 5-15-1978)

§ 53.13 PERSONS OUTSIDE OF TOWN.

No person shall directly or indirectly make any connections with or openings into the sewerage system or appurtenance owned or operated by the town, for

the purpose of serving any areas outside the corporate boundaries of the town without first satisfying the following two requirements:

(A) The connection and service approved by special agreement or contract between any person and the town, the special agreement being ratified and confirmed by ordinance of the Town Council, consistent with all terms and purposes of this subchapter citing wastewater admissibility, major contributor permits and applicable fees, rates and charges; and

(B) All persons who are fee simple owners of all of the real estate to be serviced have executed a waiver of right to object to annexation, which waiver shall be acknowledged and recorded and shall run with the land and be binding upon the owners' successors in interest, which waiver shall read substantially as follows.

**STATE OF INDIANA
TIPPECANOE COUNTY**

**AGREEMENT FOR SEWERAGE SERVICE
AND WAIVER OF RIGHT TO OBJECT TO
ANNEXATION**

To the Town of Dayton:

In consideration of the Town of Dayton, Indiana, permitting the undersigned to connect at their request to the town sewerage system and for other good and valuable consideration, the undersigned being all of the fee simple owners of all the real estate to be serviced, hereby waive all rights to object to annexation or resist any proceeding for annexation commenced either by the town or others and do hereby consent to any annexation of such by the town of all or any part of the real estate within the serviced area at any time hereafter, the real estate being legally described as follows:

(here insert legal description)

This waiver shall run with the land and shall be binding upon the heirs, administrators, devisees, assigns or successors in interest.

Dated this _____ day of _____, 20__.
(Prior Code, § 50.13) (Ord. 78-6, passed 5-15-1978)
Penalty, see § 53.99

§ 53.14 VIOLATIONS.

(A) (1) As soon as known, users shall notify the town upon accidentally discharging wastewater in violation of subchapter to enable countermeasures to be taken by the town to minimize damage to the sewerage system, wastewater treatment plant, treatment processes and the receiving stream.

(2) This notification shall be followed within seven days of the date of occurrence by a detailed written report describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.

(3) The notification will not relieve users of liability for any expense, loss or damage to the sewerage system, wastewater treatment plant or treatment process or any fines imposed by the town.

(B) When the town finds that any person has violated any provisions of this subchapter or the provisions of a major contributor permit except § 53.10, the town may require the user to submit for approval a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

(C) When the town finds that any person has violated any provision of this subchapter, or the provisions of a major contributor permit, the town may issue an order to cease and desist and direct that the user not complying with the provisions:

(1) Comply forthwith;

(2) Comply in accordance with a time schedule set forth by the town; or

(3) Take appropriate remedial or preventive action in the event of a threatened violation.

(D) When the town finds that a discharge of wastewater is in violation of the admissibility requirements of this subchapter or the provisions of a major contributor permit, or otherwise causes or threatens to cause a condition of pollution or nuisance, the town may petition the court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of a discharge.

(E) The town may revoke after 15-days' notice any major contributor permit or terminate or cause to be terminated wastewater service if a violation of any provision of this subchapter or the major contributor permit is found to exist or if a discharge causes or threatens to cause a condition of pollution or nuisance as defined in this subchapter or causes the town to violate the terms of any governmental permit issued to the town or any contract entered into by the town and any other municipality. This provision is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.

(F) Any person who knowingly makes any false statements, representation, record, report, plan or other document filed with the town or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations shall be considered in violation of this subchapter.

(G) Any person violating any of the provisions of this subchapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of the violation.

(Prior Code, § 50.14) (Ord. 78-6, passed 5-15-1978)
Penalty, see § 53.99

SEWER CHARGES**§ 53.25 DEFINITIONS.**

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

BIOCHEMICAL OXYGEN DEMAND (OR B.O.D.) OF SEWAGE, SEWAGE EFFLUENT, POLLUTED WATERS OR INDUSTRIAL WASTES.

The quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at 20°C. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

CHEMICAL OXYGEN DEMAND (OR COD) OF SEWAGE, SEWAGE EFFLUENT, POLLUTED WATERS OR INDUSTRIAL WASTES.

A measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in *Standard Methods*.

EQUIPMENT. All movable, non-fixed items necessary to the wastewater treatment process.

INDUSTRIAL WASTES. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or escaping from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by any person as defined in this section, and shall further mean any waste from an industrial user as defined in this section.

OPERATION AND MAINTENANCE EXPENSES. All annual expenses related directly to operating and maintaining the sewage works as identified in *Uniform System of Accounts for Wastewater Utilities* or as prescribed by the State

Board of Accounts under general headings, Plant Operation and Maintenance, Sewer Operation and Maintenance, Customer Accounts, Administrative and General, Insurance and Taxes.

PERSON. Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

REAL PROPERTY. All nonmovable fixed in place items such as structures and buildings, housing equipment or otherwise used in the wastewater treatment plant process.

REPLACEMENT. Expenditures for procuring and installing equipment, accessories or appurtenances which are necessary during the service life of the sewage works to maintain its designed capacity and performance.

SANITARY SEWAGE. Sewage discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions and free from stormwater, surface water and industrial wastes.

SERVICE LIFE. The period of time during which a component of a wastewater sewage works will be capable of performing a function and the maximum life components constructed under EPA Project No. C180621-03 are hereby set as follows.

Real property	50 years commencing from 9-1-1979
Process equipment	30 years commencing from 9-1-1979
Auxiliary equipment	15 years commencing from 9-1-1979

SEWAGE. The water-carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with the ground surface and stormwaters as may be present.

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

SEWER CHARGES. Comprised of the user charge and a separate amount for debt service and user charges shall mean a system of charges levied on users of a treatment works for the cost of operation and maintenance (including replacement) of the works. In addition, each user shall pay an amount sufficient to pay principal and interest (debt service) on any revenue bonds, payable from the revenues of the sewage works, proportional to the equipment and real property necessary for wastewater treatment for each user. The method of computing the initial user charge and debt service charge is contained in a report prepared by McCullough & Associates, Public Accountants, Indianapolis, Indiana, and is incorporated as a part hereof. Prior to May 1 of each year, the Clerk-Treasurer shall prepare and present to the Town Council an accounting of operation and maintenance expenses, replacement costs and debt service for the immediately preceding calendar year, and the Town Council shall, upon receiving the accounting, effect any change in the monthly sewer charges necessary to produce revenue proportionate to cost for each user.

SEWERAGE SYSTEM. The network of sewers and appurtenances used for collecting, transporting and pumping sewage to the wastewater treatment plant.

SHALL. Is mandatory; **MAY** is permissible.

STANDARD METHODS. The examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and as set forth in the Congressional Record 40 C.F.R. part 136.

STRENGTH-OF-WASTES SURCHARGE. The extra charges for sewerage service assessed users whose sewage is of a nature that it imposes upon the sewage works a burden greater than that covered by the basic user charge.

SURCHARGE. A charge for sewerage services in addition to the basic service charge.

SUSPENDED SOLIDS. Solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory alteration. Their concentration shall be expressed in milligrams per liter. Quantitative determinations shall be made in accordance with procedures set forth in *Standard Methods*.

TOWN. The Town of Dayton, Indiana, or any duly authorized officials acting in its behalf.

USER CLASSES. Each recipient of municipal wastewater treatment services shall be either in the industrial class or the nonindustrial class (including domestic, commercial, institutional and governmental).

(1) The **INDUSTRIAL CLASS** shall include any user determined by the Town Council to be discharging waste resulting from any industrial or manufacturing process; from the development, recovery or processing of any natural resource or from any other process of operation which produces waste of a strength greater than sanitary waste.

(2) The **NONINDUSTRIAL CLASS** shall include all domestic and governmental users and those industrial, commercial and institutional users whose wastes are segregated domestic wastes or wastes from sanitary conveniences where regular domestic wastes are those wastes generated by normal domestic activity as determined by the Town Council.

WASTEWATER TREATMENT PLANT. The wastewater treatment facilities of the Lafayette Municipal Sewage Works.
(Prior Code, § 51.01) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979)

§ 53.26 SEWER CHARGES BASED ON WATER USAGE.

The Town Council may require a user to install and maintain at his or her own expense an approved device to measure directly the volume of wastes discharged to the sewage system if these volumes cannot otherwise be determined. The town shall inspect and approve the installations and no service, once installed, shall be removed without the town's approval.

(Prior Code, § 51.02) (Ord. 78-7, passed 5-15-1978)

§ 53.27 SEWER CHARGES.

(A) *User classes.* Each recipient of municipal wastewater treatment services shall be either a residential user class or nonresidential user class. **RESIDENTIAL USERS** shall mean any recipient of municipal wastewater treatment services whose lot, parcel or real estate or building is used for domestic dwelling purposes only. **NONRESIDENTIAL USERS** shall mean all other users of municipal wastewater treatment services.

(B) *Sewer charges and rates.* Sewer charges are as follows.

(1) *Residential.*

(a) Zero to 3,000 gallons, \$25.76 per month.

(b) Each additional 1,000 gallons or any part thereof shall be charged at the rate of \$8.32 per 1,000 gallons.

(2) *Nonresidential user.*

(a) Zero to 3,000 gallons, \$27.55 per month.

(b) Each additional 1,000 gallons or any part thereof shall be charged at the rate of \$8.92 per 1,000 gallons.

(3) *Nonmetered user.*

(a) The minimal monthly sewer charge for any nonmetered residential user shall be \$59.06. The minimum monthly sewer charge for any nonmetered nonresidential user will be determined by the Town Council.

(b) The user charges and debt service charges set forth in this section shall become effective upon the connection of the user to the sewerage system.

(C) *Computation of surcharge.* For those users whose wastewater has a greater strength than normal domestic usage, a surcharge in addition to the normal user charge will be collected. The surcharge for operation and maintenance including replacement is:

(1) \$0.11 per pound B.O.D. in excess of 250 mg/l;

(2) \$0.11 per pound suspended solids in excess of 250 mg/l; and

(3) \$0.55 per pound ammonia in excess of 40 mg/l.

(Prior Code, §§ 51.03, 51.04) (Ord. 78-7, passed 5-15-1978; Ord. 82-1, passed 1-4-1982; Ord. 95-5, passed 7-24-1995; Ord. 01-13, passed 12-3-2001; Ord. 05-11, passed 8-1-2005; Ord. 06-10, passed 12-4-2006; Ord. 11-2012, passed 12-27-2012)

§ 53.28 INTERIM SEWER CHARGES.

(A) *Collection.* Interim sewer charges shall be collected from the owners of each and every lot, parcel of real estate or building that is or could be connected to the town's sewerage system which sewer charges shall be payable monthly until the construction of the sewerage system is completed or the user is connected to the sewerage system.

(B) *Interim sewer charges.* Each user shall pay a monthly sewer charge based on an equivalent sewer charge factor of one. The interim monthly equivalent

sewer charge for a single-family residential user is hereby fixed and established at \$0.82 for the user charge and \$3.75 for the debt service charge or a total monthly interim sewer charge of \$4.57. The interim monthly charge shall be based upon type of occupancy, as set forth in § 53.27(B). (Prior Code, §§ 51.05, 51.06) (Ord. 78-7, passed 5-15-1978)

§ 53.29 STRENGTH OF WASTE SURCHARGE.

(A) *Liability of surcharge.* Each industrial or nonindustrial user who discharges wastes into the sewerage system shall be subject to a surcharge, in addition to the regular sewer charges, based on both the biochemical oxygen demand (or on the chemical oxygen demand where B.O.D. cannot be determined) and the suspended solids content of the wastes, if these wastes have a concentration greater than the following:

(1) A biochemical oxygen demand of 250 milligrams per liter; or where B.O.D. cannot be determined, then, in lieu of B.O.D., a chemical oxygen demand of 500 milligrams per liter; and

(2) A suspended solids content of 250 milligrams per liter.

(B) *Computation of surcharge.* The surcharge shall be determined as follows.

(1) The excess pounds of B.O.D. (or COD) and of suspended solids will each be computed by first multiplying the customer's billing sewage volume measured in units of 1,000 gallons for the current billing period by the factor 0.00834 and then multiplying this product by the difference between:

(a) The concentrations measured in milligrams per liter of the B.O.D. (or COD) and of the suspended solids respectively in the customer's sewage; and

(b) The allowed concentrations set out in § 53.05.

(2) The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge set out in division (C) below.

(C) *Rates of surcharge.* The rate of surcharge for each of the aforementioned constituents shall be the same as that charged by the Lafayette, Indiana Municipal Sewage Works.

(D) *Revision of rates of surcharge.* The rates of surcharge shall be revised to remain the same as those charged by the Lafayette Municipal Sewage Works. The revision shall take effect simultaneously with the revised rates of surcharge of the Lafayette Municipal Sewage Works without amendment to this subchapter. (Prior Code, § 51.07) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979)

§ 53.30 BILLING OF SERVICE CHARGES.

(A) *Billing period.* Sewer charges for sewerage service shall be prepared and billed by the town and shall be due and payable as determined by the Town Council.

(B) *Liability for payment.* The sewer charges for sewerage service shall be billed to the property owner unless, by contract with the town, another person assumes the responsibility. If a tenant is billed, the owner shall in no way be relieved of liability in the event payment is not made by the tenant as herein required. The owner shall have the right to examine the town's collection records to ascertain whether the charges have been paid.

(C) *First billings.* The sewer charges and surcharges fixed in this subchapter shall be extended to and cover any additional premises hereafter served without the need for any hearing or notice. If the first billing to a new customer covers a period other than a full billing month, then the sewer charges for the billing shall be made in keeping with standard practice as established by the Town Council. Subsequent sewerage service billings shall be for periods

coinciding with the billing periods established by the Town Council. If the sewer charges and/or surcharges are changed, the first billing after the change may also be for a period other than a full billing month.

(Prior Code, § 51.08) (Ord. 78-7, passed 5-15-1978)

§ 53.31 DELINQUENT ACCOUNTS; HOW DELINQUENCIES ARISE.

Charges for sewerage service levied pursuant to this subchapter shall be due and payable on or before the due dates shown on the bills. Any service charge not paid by the due date (approximately 15 days after the bill is rendered) shall be considered delinquent. The delinquent charge together with any applied penalty shall be collectible as set forth in § 53.99.

(Prior Code, § 51.09) (Ord. 78-7, passed 5-15-1978)
Penalty, see § 53.99

§ 53.32 CONNECTION FEE.

(A) *Connection fee.* Any user connecting to the sanitary sewer more than 90 days subsequent to completion of construction of the sewage works shall pay a connection or tap-on fee in the amount of \$300 permit fee of \$25 per residential unit or \$150 for each commercial unit.

(B) *Implementation of industrial cost recovery.* In the event that any industrial user begins to discharge the equivalent of 25,000 gallons per day of sanitary wastes or begins to discharge waste containing any pollutants which:

(1) Interfere with treatment works processes;

(2) Are incompatible; or

(3) Contaminate or reduce the utility of the sludge of the treatment works, then the town shall develop and implement an industrial cost recovery

ordinance to be effective over the remaining cost recovery period, hereby set at 30 years commencing one year after the final project inspection and approval by E.P.A.

(Prior Code, § 51.10) (Ord. 78-7, passed 5-15-1978; Ord. 79-2, passed 1-8-1979; Ord. 96-12, passed 12-9-1996)

§ 53.33 BY-LAWS, RULES AND REGULATIONS.

The Town Council shall, in accordance with the statutes of the state, make and enforce whatever by-laws, rules and regulations it may deem necessary for the safe, economical and efficient management of the town's sewage works, for the regulation, collection and refunding of the user charges for sewerage service and, in general, for the implementation of the provisions of this subchapter. (Prior Code, § 51.11) (Ord. 78-7, passed 5-15-1978)

§ 53.34 COMPLIANCE WITH WASTEWATER AND SANITARY SEWER STANDARDS.

(A) The town shall enforce the discharge standards established pursuant to City of Lafayette Municipal Code Title 6 which are incorporated by reference herein.

(B) The City of Lafayette shall be permitted upon providing sufficient notice to the town to inspect the sanitary sewer facilities within the town to ensure compliance.

(C) Should the City of Lafayette find the lack of compliance with the standards, the town shall take those steps necessary and reasonable to correct the deficiencies.

(D) Should the town fail to act in accordance with division (C) above, the City of Lafayette may enforce compliance pursuant to City of Lafayette Municipal Code Title 6.
(Ord. 05-14, passed 12-5-2005)

§ 53.35 CREDIT ON SEWAGE FOR NEW HOMES.

(A) For the first summer of the occupancy of a newly constructed home, the occupants may petition the Town Council for sewage credit for the months of June, July and August as a result of increased water costs for the watering of lawns only.

(B) No other sewage credits shall be granted. (Ord. 05-13, passed 11-7-2005)

§ 53.36 LIABILITY FOR COSTS; INDEMNIFICATION OF TOWN.

All costs and expenses incident to the installation and connection of the building or house lateral sewer shall be the responsibility of the person who owns the premises. The person shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building or house lateral sewer.

(Ord. 05-10, passed 8-1-2005)

§ 53.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Sewers.* The commission of any act prohibited by §§ 53.01 through 53.14, by a major contributor permit, or by lawful order of the Superintendent or Inspector, or by lawful order or regulation of the Board, or the failure to perform without lawful order of the Superintendent or the Inspector, or without lawful order or regulation of the Board shall be a punishable violation of §§ 53.01 through 53.14, for which, unless there is another specific penalty provided, the penalty shall be a fine of not less than \$10 nor more than \$100 to which may be added, in the case of wilful act or omission, imprisonment not exceeding six months. In the case of

discharge into the sewage system in violation of §§ 53.01 through 53.14 or major contributors permit, each day of violation constitutes a separate offense. (Prior Code, § 50.14)

(C) *Sewer charges; delinquent accounts.*

(1) *Collection through the tax duplicate.* As provided by the statutes of the state, delinquent sewerage service charges may be made a lien against the property served through certification to the Auditor and to the Recorder of the county. In this case, the delinquent service charges, together with the mandatory penalty of 10%, shall be placed on the tax duplicate and be collected in the same manner as regular taxes and assessments are collected.

(2) *Collection through court actions.* In addition to the foregoing remedies, the town shall have the right to bring a civil action to recover any delinquent charges together with a penalty of 10% and reasonable attorney's fee. It shall also have the right, as provided by the statutes of the state, to foreclose any lien established under the provisions of § 53.30(B), with recovery of the charge, a penalty of 10% and reasonable attorney's fee. (Ord. 78-6, passed 5-15-1978; Ord. 78-7, passed 5-15-1978)

CHAPTER 54: STORMWATER MANAGEMENT

Section

- 54.01 Purpose; intent
- 54.02 Definitions
- 54.03 Creation of Stormwater Utility
- 54.04 Governing board; area served; powers and duties
- 54.05 Creation of Non-reverting Stormwater Utility Cumulative Fund
- 54.06 Stormwater utility user fee
- 54.07 Stormwater utility user fee structure
- 54.08 Schedule of rates
- 54.09 Billing and payment; penalties

AUTHORIZED OFFICIAL. Any employee or agent of the town authorized in writing by the Board to administer or enforce the provisions of this chapter.

BOARD. The Town Council acting as the Board of Public Works and Safety pursuant to I.C. 36-1-2-24.

CLASSIFICATION PROCEDURE. The method that the town uses to determine classification of non-residential parcels may take the following forms or any combination thereof:

§ 54.01 PURPOSE; INTENT.

The purpose and intent of this chapter is to promote the health, safety and general welfare of the inhabitants of the Town of Dayton, Indiana by establishing a stormwater utility sufficient to plan, control, operate and maintain the town's stormwater management system.

(Ord. 05-02, passed 3-7-2005; Ord. 2011-2, passed 2-7-2011)

§ 54.02 DEFINITIONS.

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

APPROVED PLANS. Plans approved by the authorized official according to a permit and plan review which will govern all improvements made within the town that require a stormwater system or changes or alterations to the existing stormwater system.

(1) Computation of the parcel size, pavement area, roof area, or other area using on-site measurements of the apparent outside boundaries of the parcel or impervious area in or on such developed parcel, respectively, made by the town or on its behalf.

(2) Computation of the parcel size, pavement area, roof area, or other area using the dimensions of the parcel or impervious area in or on the parcels which are set forth and contained in the records of the office of the County Assessor or Township Assessor.

(3) Computation of the parcel size, pavement area, roof area, or other area using aerial photography or photogrammetry, or using the information data from on-site measurements of like or similar property or features or as contained in the records of the town or county.

(4) Computation of parcel size, pavement area, roof area, or other area using data provided by the owner, tenant or developer. The authorized

official may require additional information as necessary to make the determination.

CODE. The Town of Dayton, Indiana Municipal Code.

COMPOSITE COVERAGE VALUE. The result of the calculations as determined by the town that multiplies pavement area times 0.90, roof area time 1.00, and other areas times 0.20 and then divides the sum of three by the total area of a particular parcel. Pavement areas include aggregate, asphalt, brick, concrete, and the like that may be used for pedestrian or vehicular traffic. Roof area include any above ground structure. Other areas include lawns, open water, woods, and the like.

COVERAGE FACTOR. That part of the non-residential rate equation representing the relative amount of impervious area on a particular parcel. For purposes of this chapter, each non-residential parcel shall be assigned one of the following **COVERAGE FACTOR** categories as determined by the town in accordance with the classification procedure:

(1) **HIGH.** The composite coverage value is more than 0.5. **HIGH COVERAGE FACTOR** is hereby established as 3.0.

(2) **LOW.** The composite coverage value is equal to or less than 0.5. **LOW COVERAGE FACTOR** is hereby established as 2.0.

NON-DEVELOPED PROPERTY. A lot or parcel of land which is vacant or is used for agricultural purposes. This does not include parking lots, athletic fields, front, back or side lawns, or lots which are used as accessory lots to residential property or non-residential property.

NON-RESIDENTIAL PROPERTY. All properties not encompassed within the definition of **RESIDENTIAL PROPERTY**, including but not limited to: commercial, industrial, retail, multi-family residential (three or more dwelling units), governmental, institutional, schools, and churches.

RESIDENTIAL PROPERTY. Any lot or parcel existing in the town on which as ingle building or mobile home is situation, containing up to and including two dwelling units. Two dwelling units or duplexes will be charged per unit.

SIZE FACTOR. The part of the non-residential rate equation representing the relative amount of surface area on a particular parcel. All surface area calculations shall be rounded to the nearest one-tenth of one acre. For purposes of this chapter, each non-residential parcel shall be assigned one of the following **SIZE FACTOR** categories as determined by the town:

(1) **SMALL.** A particular parcel is made up of equal to less than 1.0 acres. **SMALL SIZE FACTOR** is hereby established as 1.0.

(2) **MEDIUM.** A particular parcel is made up of more than 1.0 acres but less than 5.0 acres. **MEDIUM SIZE FACTOR** is hereby established as 3.0.

(3) **LARGE.** A particular parcel is made of more than 5.0 acres. **LARGE SIZE FACTOR** is hereby established as 5.5.

STORMWATER. The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet and hail.

STORMWATER SYSTEM. All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the town, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefore, any part of the system of drains and watercourses under the jurisdiction of the Tippecanoe County Drainage Board or waters of the State of Indiana.

STORMWATER UTILITY. A division of the sewage works as defined in I.C. 36-9-1-8(8) and (12).

STORM UTILITY USER. The owner of a lot or parcel within the town.

SURFACE WATER. Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

TOWN. The incorporated Town of Dayton, Tippecanoe County, Indiana.
(Ord. 2011-2, passed 2-7-2011)

§ 54.03 CREATION OF STORMWATER UTILITY.

A Stormwater Utility is hereby created as part of the Dayton Service Utility Board. The Utility shall be responsible for all storm sewers and the collection and disposal of storm drainage. The Utility shall also be responsible for the implementation of all federal and state mandates regarding stormwater drainage and erosion control.
(Ord. 2011-2, passed 2-7-2011)

§ 54.04 GOVERNING BOARD; AREA SERVED; POWERS AND DUTIES.

(A) *Governing board.* The Utility shall be governed by the Town Council acting as the Board of Public Works and Safety. This Utility shall have the same governing board as that which governs the Dayton Service Utility Board established in Chapter 52 of the Dayton Town Code.

(B) *Area served by Stormwater Utility.* The corporate limits of the Town of Dayton, Indiana, and all others who are served by the sewage works of the Town of Dayton, Indiana.

(C) *Powers and duties of Utility.* The Town Council acting as the Board of Public Works and Safety shall have all those powers and duties provided

by such boards by Title 36 of the Indiana Code and more specifically but not limited to the following:

- (1) The power to enter into contracts.
- (2) The power to employ professionals.
- (3) The power to construct, maintain, and improve the stormwater utility structures.
- (4) The power to make plans and ordinances regarding the collection and disposal of stormwater within the town.
- (5) The power to pass ordinances as provided for by I.C. Title 36 which impose just, reasonable and equitable fees or service charges for those who utilize the stormwater system and penalties to those who violate provisions of ordinances established for stormwater control and drainage.
(Ord. 2011-2, passed 2-7-2011)

§ 54.05 CREATION OF NON-REVERTING STORMWATER UTILITY CUMULATIVE FUND.

(A) A Non-reverting Stormwater Utility Cumulative Fund is hereby created. All proceeds received as a result of user fees and charges or penalties assessed by this chapter or subsequent amendments hereto shall be deposited in a Non-reverting Cumulative Stormwater Utility Fund. Proceeds from this Non-reverting Fund shall be for the exclusive use of the town's Stormwater Utility which includes, but is not limited to, the following:

- (1) Stormwater management services, such as studies, design, permit review, plan preparation and development review.
- (2) Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.
- (3) Project costs related to constructing major or minor structural improvements to the town's stormwater-related infrastructure.

(4) Administrative costs associated with the management of the stormwater utility user fee.

(5) Debt service financing of the town's stormwater-related capital improvements.

(6) Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work associated with the planning of the stormwater-related infrastructure.

(B) This would include but be not limited to the implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows and the construction of stormwater drains and sewers and maintain same within the town limits and the area served by the sewage works. All such expenditures for both capital and operating expenses must be first approved by the Town Council.

(Ord. 2011-2, passed 2-7-2011)

§ 54.06 STORMWATER UTILITY USER FEE.

A stormwater utility user fee shall be imposed on each and every lot or parcel of the real property within the Town of Dayton, Indiana including those classified as non-profit or tax exempt, for services and facilities provided by the Stormwater Utility. This user fee is deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system of the Town of Dayton, Indiana.

(Ord. 2011-2, passed 2-7-2011)

§ 54.07 STORMWATER UTILITY USER FEE STRUCTURE.

For the purposes stated herein, there is hereby assessed a stormwater utility user fee to each stormwater utility user within the corporate limits of the Town of Dayton, Tippecanoe County, Indiana, in an amount as determined below. For purposes of

imposing the stormwater utility user fee, all lots and parcels within the town are classified as either:

(A) Residential;

(B) Non-residential;

(C) Non-developed property.

(Ord. 2011-2, passed 2-7-2011)

§ 54.08 SCHEDULE OF RATES.

(A) The monthly stormwater utility user fee for all developed residential properties within the town shall be \$5. Duplexes shall be two times \$5. The Common Council, from time to time, by ordinance may amend the monthly charge established in this division (A).

(B) The monthly stormwater utility user fee for all developed non-residential properties within the town shall be coverage factor times size factor times \$5. The Common Council, from time to time, by ordinance may amend the monthly charge established in this division (B).

(C) Upon the town's completion of the classification procedure, the monthly stormwater utility user fee imposed for non-developed properties as defined herein shall be 0.25 times the low coverage factor times the size factor times \$5 that is being equal to 25% of the low coverage non-residential size classification.

(Ord. 2011-2, passed 2-7-2011)

§ 54.09 BILLING AND PAYMENT; PENALTIES.

(A) Bills or statements for the stormwater utility user fee shall be rendered monthly, in accordance with the regular sewage utility billing cycle, by the utility billing division of the town for all properties subject to the fee. Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth for the Sewer Utility. Any partial payment of

a combined utility bill shall be applied first to the stormwater utility user fee. Any unpaid stormwater utility user fees shall constitute a lien on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than 30 days, may be foreclosed by the town in the manner provided by the laws of Indiana for the foreclosure of mortgagees on real property.

(B) For properties normally receiving monthly utility bills for other town services, the stormwater utility user fee shall be included in the monthly sewage utility bill rendered to the established customer.

(C) For properties not receiving monthly utility bills for other town services, the bill or statement for the stormwater utility user fee shall be sent to the stormwater utility user as determined from the tax rolls. The Director may render annual, semiannual, or monthly billings, to be billed in arrears, to coincide with the property tax schedule, on such properties if determined to be the best interest of the town.

(D) The owner of a property is ultimately responsible for all fees imposed under this chapter.
(Ord. 2011-2, passed 2-7-2011)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PEDESTRIANS**
- 73. MOTORCYCLES, BICYCLES, COASTERS AND
THE LIKE**
- 74. TRAFFIC CONTROL DEVICES**
- 75. PARKING REGULATIONS**
- 76. BASKETBALL GOALS**
- 77. TRAFFIC SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

GENERAL PROVISIONS

70.01 Definitions

§ 70.01 DEFINITIONS.

Town Marshal

- 70.15 Duty of Marshal
- 70.16 Records of traffic violations
- 70.17 Marshal
- 70.18 Traffic accident reports
- 70.19 Emergency and experimental regulations
- 70.20 Authority of Marshal
- 70.21 Required obedience to traffic regulations
- 70.22 Obedience to Town Marshal

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

ALLEY. A public thoroughfare which affords only secondary means of vehicular access to abutting property and not over 20 feet in width.

AUTHORIZED EMERGENCY VEHICLE. The following vehicles:

Citations and Warrants

- 70.35 Procedure of Marshal
- 70.36 Illegal cancellation of traffic citations
- 70.37 Failure to obey citation
- 70.38 Citation on illegally parked vehicle
- 70.39 Failure to comply with traffic citation attached to parked vehicle
- 70.40 Presumption in reference to illegal parking
- 70.41 When warrant to be issued
- 70.42 Authority to impound vehicle

(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

70.99 Penalty

Cross-reference:

Police Department, see Ch. 33

Town Marshal, see §§ 32.020 through 32.024

(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)

BICYCLE. Every device propelled by human power upon which any person rides, having two tandem wheels either of which is over 20 inches in diameter.

BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, which occupy at least 200 feet of frontage on one side or 200 feet collectively on both sides of the highway.

COMMERCIAL VEHICLES. Every vehicle designed, maintained or used primarily for the transportation of property.

CONTROLLED ACCESS HIGHWAY. Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at points only and in a manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

CROSSWALK.

(1) The part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

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) of this definition, and when operated by an operator weighing 170 pounds.
(I.C. 9-13-2-49.3)

FREIGHT CURB LOADING ZONE. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

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)

LANED ROADWAY. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

MARSHAL. Every Town Marshal or Deputy Town Marshal duly appointed by the Town Council authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

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. A motor vehicle with motive power that:

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

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

(3) Satisfies the operational and equipment specifications described in 49 CFR 571 and I.C. 9-19.

The term does not include a farm tractor or a motor driven cycle.
(I.C. 9-13-2-108)

OFFICIAL TIME STANDARD. Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in the county.

OFFICIAL TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices not inconsistent with this title placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OPERATOR.

(1) Except as provided in divisions (2) and (3), when used in reference to a vehicle, a person, other than a chauffeur or a public passenger chauffeur, who:

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

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

(2) For purposes of I.C. 9-25, a person other than a chauffeur who is in actual physical control of a motor vehicle.

(3) For purposes of I.C. 9-18-2.5, an individual who:

(a) Operates; or

(b) Is in actual physical control of;

an off-road vehicle or snowmobile.

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

OWNER.

(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))

PASSENGER CURB LOADING ZONE. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

PEDESTRIAN. Any person afoot.

PERSON. Every natural person, firm, co-partnership, association or corporation.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of a highway.
(I.C. 9-13-2-155)

ROADWAY. The part of a highway improved, designed or ordinarily used for vehicular travel.
(I.C. 9-13-2-157)

SIDEWALK. The portion of a street between the curb lines or the lateral lines of the roadway and the adjacent property lines intended for the use of pedestrians.

STOP. When required means complete cessation of movement.

(1) **STOP, STOPPING or STANDING.** When prohibited means any stopping or standing of a vehicle, whether occupied or not, except when necessary, to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(2) **PARK.** When prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

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)

TRAFFIC. Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any street for the purposes of travel.

TRAFFIC CONTROL SIGNAL. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

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))

(Ord. 73-5, passed - -1973)

TOWN MARSHAL

§ 70.15 DUTY OF MARSHAL.

In addition to any other duties heretofore or hereafter established, it shall be the duty of the Marshal to enforce the street traffic regulations of this town and all of the state vehicle laws applicable to a street traffic in this town, to make arrests for traffic violations, to investigate accidents and to cooperate with the Town Council and other officers of the town in the administration of the traffic laws and in

developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the Marshal by this title and the traffic regulations of the town.

(Ord. 73-5, passed - -1973)

§ 70.16 RECORDS OF TRAFFIC VIOLATIONS.

(A) (1) The Marshal shall keep a record of all violations of the traffic regulations of this town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all alleged offenses.

(2) The record shall be so maintained as to show all types of violations and the total of each.

(3) The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(B) (1) All forms for records of violations and notices of violation shall be serially numbered.

(2) For each month and year a written record shall be kept available to the public showing the disposal of all forms.

(C) All records and reports shall be public records.

(Ord. 73-5, passed - -1973)

§ 70.17 MARSHAL.

It shall be the duty of the Marshal to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to accidents.

(Ord. 73-5, passed - -1973)

§ 70.18 TRAFFIC ACCIDENT REPORTS.

The Marshal shall maintain a suitable system of filing traffic accident reports.

(Ord. 73-5, passed - -1973)

§ 70.19 EMERGENCY AND EXPERIMENTAL REGULATIONS.

(A) The Marshal, by and with the approval of the Town Council, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this town and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No temporary or experimental regulation shall remain in effect for more than 90 days.

(B) The Marshal may test traffic control devices under actual conditions of traffic.

(Ord. 73-5, passed - -1973)

§ 70.20 AUTHORITY OF MARSHAL.

(A) It shall be the duty of the Marshal to enforce all street traffic laws of this town and all of the state vehicle laws applicable to street traffic in this town.

(B) The Marshal is hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of fire or other emergency or to expedite traffic or to safeguard pedestrians, and may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(Ord. 73-5, passed - -1973)

§ 70.21 REQUIRED OBEDIENCE TO TRAFFIC REGULATIONS.

It is an infraction for any person to do any act forbidden or fail to perform any act required in this title.

(Ord. 73-5, passed - -1973)

§ 70.22 OBEDIENCE TO TOWN MARSHAL.

No person shall willfully fail or refuse to comply with any lawful order or direction of a Marshal.
(Ord. 73-5, passed - -1973)

CITATIONS AND WARRANTS**§ 70.35 PROCEDURE OF MARSHAL.**

Except when authorized or directed under state law to immediately take a person before a magistrate for the violation of any traffic laws, a Marshal who halts a person for violations other than for the purpose of giving him or her a warning or warning notice and does not take the person into custody under arrest, shall take the name, address and the operator's licence number of the person, the registered number of the motor vehicle involved and other pertinent information as may be necessary, and shall issue to him or her in writing on a form provided by the town, a traffic citation containing a notice to answer to the charge against him or her in a superior court of Tippecanoe County as determined by the Tippecanoe County Clerk of Courts at a time at least five days after the alleged violation to be specified in the citation. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release the person from custody.
(Ord. 73-5, passed - -1973)

§ 70.36 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this subchapter.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 70.37 FAILURE TO OBEY CITATION.

It shall be unlawful for any person to violate his or her written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which the citation was originally issued.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 70.38 CITATION ON ILLEGALLY PARKED VEHICLE.

Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of this town or by state law, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a traffic citation, on a form and as provided in § 70.35.
(Ord. 73-5, passed - -1973)

§ 70.39 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to the motor vehicle within a period of five days, the Marshal shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him or her of the violation and warning him or her that in the event the letter is disregarded for a period of five days, a warrant of arrest will be issued.
(Ord. 73-5, passed - -1973)

§ 70.40 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

(A) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle

described in the complaint was parked in violation of any law or regulation, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed each vehicle at the point where, and for the time during which, the violation occurred.

(B) The foregoing stated presumption shall apply only when the procedure as prescribed in §§ 70.38 and 70.39 has been followed.
(Ord. 73-5, passed - -1973)

§ 70.41 WHEN WARRANT TO BE ISSUED.

In the event any person fails to comply with a traffic citation given to the person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in a superior court of Tippecanoe County as determined by the Tippecanoe County Clerk of Courts or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the Marshal shall secure a warrant for his or her arrest.
(Ord. 73-5, passed - -1973)

§ 70.42 AUTHORITY TO IMPOUND VEHICLE.

(A) The Marshal is hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety under the circumstances hereinafter enumerated:

(1) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to an extent as to be unable to provide for its custody or removal; and

(2) When any vehicle is left unattended upon a street or alley and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(B) Whenever a Marshal removes a vehicle from a street as authorized in this section and the Marshal knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Marshal shall immediately give or cause to be given notice in writing to the owner of the fact of each removal and the reasons therefor and of the place to which the vehicle has been removed. In the event any vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.
(Ord. 73-5, passed - -1973)

§ 70.99 PENALTY.

Any person, firm or corporation who violates any provision of this title 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 Persons propelling push carts or riding animals to obey traffic regulations
- 71.05 Use of coasters, roller skates and similar devices restricted
- 71.06 Public employees to obey traffic regulations
- 71.07 Authorized emergency vehicles
- 71.08 Operation of vehicles on approach of authorized emergency vehicles
- 71.09 Immediate notice of accident
- 71.10 Following fire apparatus prohibited
- 71.11 Crossing fire hose
- 71.12 Vehicles not to be driven on sidewalk
- 71.13 Limitations on backing

Processions and Parades

- 71.25 Driving through funeral or other procession
- 71.26 Drivers in a procession
- 71.27 Funeral processions to be identified
- 71.28 Notification required for parades and processions

Obstructions

- 71.40 Obstructions prohibited
- 71.41 Exceptions
- 71.42 Enforcement
- 71.43 Remedies
- 71.44 Scope

GENERAL PROVISIONS

§ 71.01 TRUCKS PROHIBITED ON CERTAIN STREETS.

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

Penalty, see § 70.99

§ 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 § 70.99

Cross-reference:

Local designation of stop intersections, see Ch. 74

§ 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 § 70.99

§ 71.04 PERSONS PROPELLING PUSH CARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this title applicable to the driver of any vehicles, except those provisions of this title which by their very nature can have no application. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.05 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coasters, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing the person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.06 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or

town, and it shall be unlawful for any driver to violate any of the provisions of this title, except as otherwise permitted in this title or by state statutes. (Ord. 73-5, passed - -1973)

§ 71.07 AUTHORIZED EMERGENCY VEHICLES.

(A) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(B) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this title;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as he or she does not endanger life or property; and

(4) Disregard regulations governing direction of movement or turning in specified directions.

(C) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(D) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.

(Ord. 73-5, passed - -1973)

§ 71.08 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.

(A) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in the position until the authorized emergency vehicle has passed, except when otherwise directed by a Marshal.

(B) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Ord. 73-5, passed - -1973)

§ 71.09 IMMEDIATE NOTICE OF ACCIDENT.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage shall immediately by the quickest means of communication give notice of the accident to the Marshal if the accident occurs within this town.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.10 FOLLOWING FIRE APPARATUS PROHIBITED.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park a vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.11 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.12 VEHICLES NOT TO BE DRIVEN ON SIDEWALK.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.13 LIMITATIONS ON BACKING.

The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

PROCESSIONS AND PARADES**§ 71.25 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.**

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this title.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.26 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

(Ord. 73-5, passed - -1973)

§ 71.27 FUNERAL PROCESSIONS TO BE IDENTIFIED.

A funeral composed of a procession of vehicles shall be identified as that by the display upon the outside of each vehicle of a pennant or other identifying insignia and shall drive with headlights on.

(Ord. 73-5, passed - -1973)

§ 71.28 NOTIFICATION REQUIRED FOR PARADES AND PROCESSIONS.

No funeral, procession or parade containing 100 or more persons or 20 or more vehicles, excepting the forces of the United States Army or Navy, the military forces of this state, the forces of the police and fire departments, shall occupy, march or proceed along the street, without first having notified the Marshal.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

OBSTRUCTIONS**§ 71.40 OBSTRUCTIONS PROHIBITED.**

On property at any corner formed by intersecting streets, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out maintenance of any sign, hedge, shrubbery, natural growth or other obstruction to the view, higher than three feet six inches above the level of the center of the adjacent intersection, within that triangular area between the property line and a diagonal line joining points on the property lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve and a diagonal line joining points on the tangent 25 feet from the point of their intersection. The tangents referred to are those at the beginning and end of the curve at the corner.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 71.41 EXCEPTIONS.

The foregoing provision shall not apply to permanent buildings, public utility poles, trees trimmed (to the trunk) to a line at least eight feet above the level of the intersection, saplings, or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view, supporting members of appurtenances to permanent buildings existing on the date the ordinance herein codified becomes effective, official warning signs or signals, to places where the contour of the ground is such that there can be no cross-visibility at the intersection, or to signs mounted ten feet or more above the ground and whose supports do not constitute an obstruction as defined in § 71.40.

(Ord. 73-5, passed - -1973)

§ 71.42 ENFORCEMENT.

The enforcement of this subchapter shall be under the Marshal. The Marshal shall investigate violations of this subchapter, give notice as may be required to

carry out this subchapter, and perform other duties in connection with the enforcement of this subchapter as may be required.

(Ord. 73-5, passed - -1973)

§ 71.43 REMEDIES.

Any obstruction as maintained in violation of this subchapter shall be deemed a nuisance, and upon failure to abate it within 20 days after the posting upon the premises of notice to abate the nuisance signed by Marshal, the Marshal may enter upon the premises and remove, cause to be removed or eliminate the obstruction, to declare what shall constitute a nuisance, to prevent the same, require its abatement, authorize the removal of the same by the proper officers, and provide for the punishment of the person or persons causing or suffering the same, and to assess the expenses of its removal against the person or persons, and to provide for collecting the expenses either by causing them to be placed on the tax duplicate or by suit.

(Ord. 73-5, passed - -1973)

§ 71.44 SCOPE.

No obstruction to cross-visibility shall be deemed to be excepted from the application of this subchapter because of its being in existence at the time of the adoption hereof, unless expressly exempted by the terms of this subchapter.

(Ord. 73-5, passed - -1973)

CHAPTER 72: PEDESTRIANS

Section

- 72.01 Pedestrians subject to traffic control devices
- 72.02 Pedestrians' right-of-way in crosswalk
- 72.03 Crossing at right angles
- 72.04 When pedestrian shall yield
- 72.05 Prohibited crossing
- 72.06 Pedestrians walking along roadways
- 72.07 Pedestrians soliciting rides or business
- 72.08 Drivers to exercise due care

§ 72.01 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL DEVICES.

Pedestrians shall be subject to traffic control signals as declared in this title in Chapter 74, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter (Ord. 73-5, passed - -1973)

§ 72.02 PEDESTRIANS' RIGHT-OF-WAY IN CROSSWALK.

(A) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield. A pedestrian's right-of-way in a crosswalk is modified under the condition and as stated in this title.

(B) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.03 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk,

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.04 WHEN PEDESTRIAN SHALL YIELD.

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(B) The foregoing rule in this section has no application under the conditions stated in § 72.05 when pedestrians are prohibited from crossing at certain designated places.

(Ord. 73-5, passed - -1973)

§ 72.05 PROHIBITED CROSSING.

No pedestrian shall cross a roadway other than in a crosswalk in any business district.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.06 PEDESTRIANS WALKING ALONG ROADWAYS.

(A) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(B) Where sidewalks or marked walkways are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.07 PEDESTRIANS SOLICITING RIDES OR BUSINESS.

No person shall stand on a street or highway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 72.08 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon the roadway.
(Ord. 73-5, passed - -1973)

CHAPTER 73: MOTORCYCLES, BICYCLES, COASTERS AND THE LIKE

Section

General Provisions

73.01 Attaching to vehicles

Motorcycles

73.15 Riding on motorcycles

Bicycles

73.30 Traffic laws to apply to persons riding bicycles

73.31 Obedience to traffic control devices

73.32 Riding on bicycles

73.33 Riding on roadways and bicycle paths

73.34 Speed

73.35 Emerging from alley or driveway

73.36 Attaching to vehicles

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73.40 Lamps and other equipment on bicycles

Golf carts

73.50 Definitions

73.51 Required equipment

73.52 Regulation of operation of golf carts on town streets

73.99 Penalty

GENERAL PROVISIONS

§ 73.01 ATTACHING TO VEHICLES.

No person riding any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway. (Ord. 73-5, passed - -1973) Penalty, see § 73.99

MOTORCYCLES

§ 73.15 RIDING ON MOTORCYCLES.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear side of the operator.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

BICYCLES

§ 73.30 TRAFFIC LAWS TO APPLY TO PERSONS RIDING BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of

this town applicable to the driver of a vehicle, except as to special regulations in this subchapter and except as to those provisions of laws and ordinances which by their nature can have no application.

(Ord. 73-5, passed - -1973)

§ 73.31 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(A) Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a Marshal.

(B) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any sign, except where the person dismounts from the bicycle to make the turn, in which event the person shall then obey the regulations applicable to pedestrians.

(Ord. 73-5, passed - -1973)

§ 73.32 RIDING ON BICYCLES.

(A) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(B) No bicycle shall be used to carry more persons at one time than the number it was designed and equipped.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.33 RIDING ON ROADWAYS AND BICYCLE PATHS.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side or the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a roadway shall not ride more than single file except on paths or parts of roadways set aside for the exclusive use of bicycles.

(C) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use that path and shall not use the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.34 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.35 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley, driveway or building shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.36 ATTACHING TO VEHICLES.

No person riding upon a bicycle shall attach the same or himself or herself to any vehicle upon a roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.37 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.38 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or on the sidewalk in a rack to support the bicycle or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.39 RIDING ON SIDEWALKS.

(A) No person shall ride a bicycle upon a sidewalk within a business district.

(B) No person 16 or more years of age shall ride a bicycle upon any sidewalk in any district.

(C) Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

§ 73.40 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

(A) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(C) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Ord. 73-5, passed - -1973) Penalty, see § 73.99

GOLF CARTS**§ 73.50 DEFINITIONS.**

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

GOLF CART. As defined by I.C. 9-13-2-69.7, and shall include "off road vehicles" which shall include only three or four-wheel vehicles with the equipment required by this ordinance, and which shall have side-by-side seating and a steering wheel, but shall exclude vehicles which must be straddled to ride or which have handle bars instead of a steering wheel.

STREETS. All public streets and rights of way, except those which are subject to control by the Indiana Department of Transportation, Tippecanoe County, or by any other governmental entity.

(Ord. 2016-3, passed 5-2-2016)

§ 73.51 REQUIRED EQUIPMENT.

The operator shall be responsible for:

(A) Proof of financial responsibility as defined by I.C. 9-25-2-3;

(B) Issuance of a valid driver's license;

(C) That the golf cart is reasonable safe for use on town streets in the judgment of the Town Marshal:

(1) The golf cart must be equipped with a "slow moving vehicle" sign;

(2) The golf cart must be equipped with at least one rear-view mirror;

(3) The golf cart must be equipped with brakes, headlights and taillights; and headlights and taillights must be on during all times when cart is in operation on town streets.

(Ord. 2016-3, passed 5-2-2016)

§ 73.52 REGULATION OF OPERATION OF GOLF CARTS ON TOWN STREETS.

(A) Golf carts shall be maintained in proper working condition with all equipment in good working order.

(B) Any golf cart operated on town streets not in compliance with the requirements of this subchapter may be issued a citation pursuant to Indiana law.

(C) A golf cart may be operated only by an individual with a valid driver's license.

(D) Golf carts shall only be operated at any time except between the hours of 12:00 p.m. midnight and 6:00 a.m.

(E) All golf carts shall obey all of the rules of the road, state laws and local ordinances.

(D) Golf carts shall not exceed a speed of 20 miles per hour within town limits.

(G) All golf carts shall display a "slow moving vehicle" sign attached to the rear of the golf cart.

(H) Proof of financial responsibility (as defined by I.C. 9-25-2-3) shall be kept on the golf cart at all times.

(I) All passengers must remain seated while the golf cart is in use.

(J) The provisions and requirements of I.C. § 9-19-11-2 et seq. related to passenger restraint systems for children shall be applicable and fully enforceable with respect to golf carts within the town, and golf carts shall be considered "motor vehicles" within the context of I.C. § 9-19-11-2 et seq.

(K) Any golf cart found operating in violation of this subchapter shall be subject to the following fines:

- (1) First offense: \$50;
- (2) Second offense within one year: \$100;

(3) Third offense within one year of the second offense: \$500 and revocation of the golf cart's registration for a period of not less than one year.

(L) Any fine assessed for violation of this subchapter shall be deposited in the town's General Fund.

(M) Golf carts owned by the town shall be exempt from the requirements of this subchapter, but not the operational regulations contained herein. (Ord. 2016-3, passed 5-2-2016)

§ 73.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 70.99.

(B) *Bicycles.*

(1) It is an infraction for any person to do any act forbidden or fail to perform any act required in §§ 73.30 through 73.40.

(2) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of §§ 73.30 through 73.40.

(3) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(4) Every person convicted of a violation of any provision of this chapter as it applies to the operation of a bicycle, shall be punished by a fine of not more than \$25 or by impounding of the person's bicycle for a period of not to exceed 30 days or by any combination thereof. (Ord. 73-5, passed - -1973)

CHAPTER 74: TRAFFIC CONTROL DEVICES

Section

General Provisions

- 74.01 Establishment and maintenance of traffic control devices
- 74.02 Obedience to signals
- 74.03 Interference with signals
- 74.04 Unauthorized signals or markings
- 74.05 Manual and specification for traffic control devices
- 74.06 When traffic devices required for enforcement purposes
- 74.07 Traffic control signal legend
- 74.08 Pedestrian control signals
- 74.09 Flashing signals
- 74.10 Town Council to designate crosswalks and establish safety zones
- 74.11 Traffic lanes
- 74.12 Through streets designated

Stop and Yield Signs

- 74.25 Authority to erect stop signs
- 74.26 Stop signs or yield signs
- 74.27 Vehicles to stop at stop signs
- 74.28 Vehicles entering yield intersection
- 74.29 Emerging from alley, driveway or building
- 74.30 Stop when traffic obstructed

Speed and Turning

- 74.45 Speed regulations
- 74.46 Required position and method of turning at intersections
- 74.47 Authority to place and obedience to turning markers

- 74.48 Authority to place restricted turn signs
- 74.49 Obedience to no-turn signs
- 74.50 Limitations on turning around

GENERAL PROVISIONS

§ 74.01 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.

§ 74.02 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

§ 74.03 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

§ 74.04 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 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

§ 74.05 MANUAL AND SPECIFICATION FOR TRAFFIC CONTROL DEVICES.

(A) All traffic control signs, signals and devices shall conform to the manual and specifications approved by the State Highway Department or resolution adopted by the legislative body of this town. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the town.

(B) All traffic control devices so erected and not inconsistent with the provisions of state law or this title shall be official traffic control devices.

(Ord. 73-5, passed - -1973)

§ 74.06 WHEN TRAFFIC DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this title for which signs or markings are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, the section shall be effective even though no signs are erected or in place.

(Ord. 73-5, passed - -1973)

§ 74.07 TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic control signals exhibiting the words "GO," "CAUTION" or "STOP" or exhibiting different colored lights successively, one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(A) *Green alone or "GO."*

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at the place prohibits either turn. But vehicular

traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) *Yellow alone or "CAUTION" when shown following the green or "GO" signal.*

(1) Vehicular traffic facing the signal is thereby warned that the red or "STOP" signal will be exhibited immediately thereafter and the vehicular traffic shall not enter or be crossing the intersection when the red or "STOP" signal is exhibited.

(2) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(C) *Red alone or "STOP."*

(1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "GO" is shown alone.

(2) Pedestrians facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(D) *Red with green arrow.*

(1) (a) Vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing the signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(E) *Device at place other than intersection.* In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal.

(Ord. 73-5, passed - -1973)

§ 74.08 PEDESTRIAN CONTROL SIGNALS.

Whenever special pedestrian control signals exhibiting the words "WALK" or "WAIT" or "DON'T WALK" are in place, the signals shall indicate as follows.

(A) "WALK." Pedestrians facing the signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(B) "WAIT" or "DON'T WALK." No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Ord. 73-5, passed - -1973)

§ 74.09 FLASHING SIGNALS.

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows.

(A) *Flashing red (stop signal).* When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering into the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution. (Ord. 73-5, passed - -1973)

§ 74.10 TOWN COUNCIL TO DESIGNATE CROSSWALKS AND ESTABLISH SAFETY ZONES.

The Town Council by resolution is hereby authorized to designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway, and at other places as they may deem necessary. (Ord. 73-5, passed - -1973)

§ 74.11 TRAFFIC LANES.

(A) The Town Council is hereby authorized to cause to be marked traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(B) Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep the vehicle within the boundaries of any lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.12 THROUGH STREETS DESIGNATED.

Those streets and parts of streets described in Chapter 77, Schedule III and made a part of are hereby declared to be through streets for the purpose of this section. (Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986)

STOP AND YIELD SIGNS

§ 74.25 AUTHORITY TO ERECT STOP SIGNS.

There shall be erected at the intersection of all streets with a through street, or at all streets of an intersection where an engineering and traffic survey indicates a greater degree of safety would result, a stop sign or yield sign as set forth in Chapter 77, Schedule IV. (Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986)

§ 74.26 STOP SIGNS OR YIELD SIGNS.

(A) Every stop sign erected pursuant to this subchapter shall bear the word "STOP" in letters not less than six inches in height, and every yield sign shall bear the word "YIELD" in letters not less than seven inches in height. The signs shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed flood light projected on the face of the sign, or by sufficient reflecting elements on the face of the sign. Every stop sign and every yield sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

(B) In residence and business districts and at any place where parked vehicles may frequently obscure the stop or yield signs, the signs shall be mounted so that their lower edge will be seven feet above the top of the curb. The left edge of the sign shall be not less than one foot nor more than three feet back from the face of the curb. Where there is a marked crosswalk on the pavement, the sign shall be erected four feet in advance of the crosswalk line nearest to approaching traffic. (Ord. 73-5, passed - -1973)

§ 74.27 VEHICLES TO STOP AT STOP SIGNS.

When stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a Marshal.

(A) After the driver of a vehicle has stopped at the entrance to a through highway, the driver shall yield the right-of-way to other vehicles which have entered the intersection from the through highway as to constitute an immediate hazard, but the driver having so yielded, may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle so proceeding into or across the through highway.

(B) After the driver of a vehicle has stopped in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through highway, the driver shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.28 VEHICLES ENTERING YIELD INTERSECTION.

(A) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. The driver having so yielded and

having stopped in order to so yield, may then proceed and the drivers of all other vehicles approaching the intersection on intersecting roadways shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and who has or causes a collision with a vehicle which entered the intersection from an intersecting roadway shall prima facie be considered not to have yielded the right-of-way as required herein. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at the distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision.

(B) The driver of a vehicle approaching a yield sign is required for safety to stop shall stop before entering the crosswalk on the near side of the intersection, or, in the event there is no crosswalk at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.29 EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.30 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate

the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

SPEED AND TURNING

§ 74.45 SPEED REGULATIONS.

Except on streets and highways designated as state highways, upon which state speed limits shall pertain, the maximum speed of vehicles within the town and on all streets in the town shall be as designated. The Town Council by resolution shall designate locations where speed signs shall be located as well as give person notice thereof, and cause the signs to be erected. The Town Council by resolution from time to time shall reduce speed limits and erect signs accordingly, where it determines special hazards, not of a continuing nature, exist.

(Ord. 73-5, passed - -1973; Ord. 85-5, passed 6-3-1985)

Cross-reference:

Speed regulations, see Ch. 77, Sch. I

§ 74.46 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do as follows.

(A) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(B) *Left turns or two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the

center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(Ord. 73-5, passed - -1973)

§ 74.47 AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS.

(A) The Town Council is authorized to cause to be placed markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles at the intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(B) When authorized marker, button or other indications are placed within an intersection indicating the course to be traveled by vehicles, no driver of a vehicle shall disobey the directions of the indications. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.48 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Town Council by resolution is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn, and shall cause to be placed proper signs at the intersections. The making of those turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when the turns are permitted.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

§ 74.49 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right, left or U turn is permitted, no driver of a vehicle shall disobey the directions of any sign. (Ord. 73-5, passed - -1973) Penalty, see § 70.99

**§ 74.50 LIMITATIONS ON TURNING
AROUND.**

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic.

(Ord. 73-5, passed - -1973) Penalty, see § 70.99

CHAPTER 75: PARKING REGULATIONS

Section

General Provisions

- 75.01 No parking where posted
- 75.02 Limited parking
- 75.03 Other parking restrictions
- 75.04 Parking for persons with physical disability

Stopping, Standing and Parking of Vehicles

- 75.15 Standing or parking too close to curb
- 75.16 Signs or marking indicating parking methods or restrictions
- 75.17 Parking prohibited in specific places
- 75.18 Storing of vehicles on streets
- 75.19 Loading zones
- 75.20 Unauthorized parking on private property
- 75.21 Commercial vehicle parking
- 75.22 Yard parking
- 75.23 Parking of vehicles with “for sale” signs
- 75.24 Snow emergencies
- 75.99 Penalty

GENERAL PROVISIONS

§ 75.01 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 § 75.99

§ 75.02 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 § 75.99

§ 75.03 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 § 75.99

§ 75.04 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 § 75.99

Statutory reference:

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

***STOPPING, STANDING AND PARKING
OF VEHICLES***

**§ 75.15 STANDING OR PARKING TOO
CLOSE TO CURB.**

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curb-side wheels of the vehicle within 12 inches of the curb or edge of the roadway except as otherwise provided in this subchapter.

(Ord. 73-5, passed - -1973; Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

**§ 75.16 SIGNS OR MARKING INDICATING
PARKING METHODS OR RESTRICTIONS.**

The Town Council shall determine how and where parking shall occur and shall direct the placing of signs or markings indicating how parking may occur or where it shall not occur. The Town Council shall determine what parking restrictions are appropriate at any location, based upon traffic safety and the convenience and welfare of nearby properties and their uses. The restrictions may include whether parking is permitted or not, a restriction upon the length of time of parking by any one vehicle in the same block, and restrictions on the time of day parking is permitted. Upon any street or alley so signed or marked, no person shall park or stand a vehicle except in obedience to signs or markings. No parking regulations or restrictions based upon time shall be effective until signed.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.17 PARKING PROHIBITED IN SPECIFIC PLACES.

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk or between sidewalk and curb;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the city traffic engineer has indicated a different length by signs;
- (9) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance, when properly sign posted;
- (10) Alongside or opposite any street excavation or obstruction where stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) At any place where official signs prohibit stopping;

(14) On the traveled portion of any roadway, which does not have a curb or gutter, when stopping, standing or parking would obstruct traffic; or

(15) Upon any islands which separate traffic lanes.

(B) No person shall move a vehicle not lawfully under the person's control into any prohibited area or away from a curb the distance as is unlawful. (Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.18 STORING OF VEHICLES ON STREETS.

No person shall stand or park any vehicle upon a street or alley in any part of the traveled portion of the roadway, except as required by other stopped traffic. (Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.19 LOADING ZONES.

The town is authorized to determine the location of passenger and freight curb loading zones and any restrictions upon the use thereof, including the hours during which a zone may be used or the types of vehicles or uses for the zone. No person may use any loading zone for longer than necessary for loading or unloading and in no event more than 30 minutes at a time. The town shall direct loading zones and any restrictions to be marked or signed as provided in this title. No person shall use any loading zone except in obedience of the restrictions.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.20 UNAUTHORIZED PARKING ON PRIVATE PROPERTY.

(A) *Private property.* **PRIVATE PROPERTY** is defined as any property that is not dedicated public right-of-way.

(B) *Unauthorized parking prohibited.* It is unlawful for any person to park any motor vehicle, house trailer, one-, two- or three-wheel trailers, tractor trailer or any other type of motorized or non-motorized conveyance ordinarily pulled or attached to a motor vehicle, on any private property without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent or trustee of the property. A complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of the property.

(C) *Complaints; towing.* A complaint for violation of this section shall be made on the form prescribed by the Police Chief and signed by the complainant. The vehicle shall be ticketed for a violation of this section and/or other ordinances of the town.

(D) *Towing, retail and other parking.* The investigation officer may direct the vehicle to be removed immediately if:

(1) The illegally parked vehicle is in a parking lot used for retail establishments, professional offices, a house of worship or a public building; and

(2) All vehicular entrances to the parking lot have signs posted prohibiting unauthorized parking, on a form prescribed by the town.

(E) *Towing, other bases.* The investigating officer may also direct the removal of the vehicle if the vehicle remains illegally parked on private property for more than four hours after the vehicle was ticketed for unauthorized parking.

(F) *Removal of illegally parked vehicle.* An investigating officer who directs the removal of an illegally parked vehicle under this section shall arrange for the same to be removed by a reputable towing company and placed in a reputable storage or parking facility.

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.21 COMMERCIAL VEHICLE PARKING.

No person shall park, for more than four hours, in a residential district, a vehicle designed, used or maintained as a commercial vehicle including any bus or commercial truck, as hereafter defined, or any vehicle designed or modified to serve purposes other than the transportation of persons, if the vehicle is used in or is part of a business or service. Notwithstanding the above, a commercial vehicle shall not include municipal or other governmental vehicles, public utility vehicles, vehicles delivering services or authorized emergency vehicles, nor shall political stickers, signs or advertisements constitute a business, service or product for the purposes of this section. Commercial vehicles shall include a motor vehicle designed and registered as a truck and licensed under the motor carrier laws of the state for the transportation of property but not persons, or a motor vehicle designed and registered as a truck and used exclusively in the transportation of property in commerce but not for the transportation of persons at any time. A commercial truck shall not include station-wagon types, utility class vehicles, pickup trucks, any vehicle in which the cargo space is enlarged by the removal or folding down of seats, vans with more seats than for a driver and helper or any vehicle originally designed as a passenger-type vehicle.

(Ord. 01-06, passed 9-10-2001)

§ 75.22 YARD PARKING.

No person shall operate or park any motor vehicle, camper, trailer of any type, all-terrain vehicle including four-wheelers and snowmobiles, machinery, or equipment on any portion of a lot in any residential district other than on a drive or approved parking area. No person shall operate or park any motor vehicle, camper, trailer of any type, all-terrain vehicle including four-wheelers and snowmobiles, machinery, or equipment on any portion of a lot in any residential district in a way requiring driving the vehicle over the curb instead of through a curb out.

(Ord. 01-06, passed 9-10-2001; Ord. 14-15, passed 11-3-2014) Penalty, see § 75.99

**§ 75.23 PARKING OF VEHICLES WITH
“FOR SALE” SIGNS.**

(A) This section applies to any vehicle displaying a “for sale” sign (including any other sign regardless of wording implying that the vehicle is for sale), other than a vehicle offered for sale at a licensed motor vehicle dealer.

(B) A vehicle, when not in use shall not be parked overnight with a “for sale” sign displayed in any parking lot in a commercial zone (NB, NBU, OR, MR, GB, HB, CB, CBW, I1, I2, I3, PDNR and PDMX).

(Ord. 01-06, passed 9-10-2001) Penalty, see § 75.99

§ 75.24 SNOW EMERGENCIES.

(A) Whenever, as determined by the President of the Town Board, or designee, a snow emergency exists, it is unlawful to park vehicles on emergency snow routes. Snow emergency routes shall be appropriately signed as determined by the Parking Commission. Any vehicle parked or stopped on such streets at the time a snow emergency is declared shall have 12 hours to vacate the above stated emergency snow routes to allow for proper snow plowing. Any vehicle remaining on emergency snow routes after 12 hours shall be determined to be blocking efficient snow removal and may be removed at the owners' expense by any member of the Town Marshal's Department and taken to the nearest garage or other place of safety for storage until claimed by the owner of such vehicle. This section on parking after snow shall remain in effect from the time a snow emergency is declared until such time as the emergency is declared passed by the President of the Town Board, or designee.

(B) In the event of a snow accumulation event of one-half of one inch or more, parking on town streets shall only be permitted on the north side of the street where the street runs primarily from east to west, on the east side of the street where the street runs primarily north to south, and where a street runs primarily southwest to northeast, then parking is only permitted on the northwestern side of the street.

(C) Members of the Town Marshal's Department are authorized to immediately remove a vehicle when any vehicle is remaining on a snow emergency route 12 hours after a snow emergency has been declared by the President of the Town Board, or designee.

(D) Members of the Town Marshal's Department are authorized to immediately remove a vehicle found to be in violation of division (B) for a period of more than 12 hours.

(Ord. 14-14, passed 11-3-2014)

§ 75.99 PENALTY.

(A) 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.

(B) Violation of this chapter shall be forwarded to the Ordinance Violation Bureau for Disposition. (Ord. 73-5, passed - -1973; Ord. 01-06, passed 9-10-2001)

CHAPTER 76: BASKETBALL GOALS

Section

- 76.01 Approval for goal in right-of-way
- 76.02 Guidelines for approval
- 76.03 Indemnity
- 76.04 Right to revoke permission

(C) Analyze traffic accident study; considering types and causes of and traffic accidents occurring on the street for which request was made;

(D) Analyze speed study on the street for which request was made; and

§ 76.01 APPROVAL FOR GOAL IN RIGHT-OF-WAY.

(A) The resident/property owner shall file a letter of request with the Town Council for approval of erecting a basketball goal on adjacent right-of-way.

(B) This request shall be accompanied by the written consent of all property owners located on the same street within 100 feet of proposed basketball goal.

(C) The Town Council shall refer the request to the Committee on Traffic, Parking and Public Safety to evaluate and make a recommendation as to allow or not allow a basketball goal and report the recommendation back to the Town Council.
(Prior Code, § 94.01) (Ord. 95-3, passed 3-6-1995)

§ 76.02 GUIDELINES FOR APPROVAL.

Each request would be evaluated on a case-by-case basis consistent with the ordinances of the town and the guidelines set forth below:

(A) Considering the type of street for which the request was made, i.e., cul-de-sac, dead end, court, main thoroughfare;

(B) Analyze traffic counts on the street for which request was made;

(E) Considering proposed placement of basketball goal.

(Prior Code, § 94.02) (Ord. 95-3, passed 3-6-1995)

§ 76.03 INDEMNITY.

The resident/property owner shall furnish the town with a letter indemnifying the town for any property damage or personal injury caused by the placement of the basketball goal along with a certificate of insurance.

(Prior Code, § 94.03) (Ord. 95-3, passed 3-6-1995)

§ 76.04 RIGHT TO REVOKE PERMISSION.

The Town Council will have the right to revoke permission if, based on a report by the Committee on Traffic, Parking and Public Safety, the situation becomes unworkable.

(Prior Code, § 94.04) (Ord. 95-3, passed 3-6-1995)

CHAPTER 77: TRAFFIC SCHEDULES

Schedule

- I. Speed regulations
- II. Commercial vehicles
- III. Through streets
- IV. Stop intersections
- V. Yield signs

SCHEDULE I. SPEED REGULATIONS.

Except on streets and highways designated as state highways upon which state speed limits shall pertain, the maximum speed of vehicles within the town and on all streets in the town shall be as follows.

(A) *Speed limit; 25 mph.*

<i>Street</i>
Cagles Mill Drive
Clifty Falls Drive
Clifty Falls Lane West
Conjunction Street, from Meadow Lane to Cagles Mill Drive
Conjunction Street, from Walnut Street to College Street
Dayton Road North, from College Street to Walnut Street
Dayton Road North, from Walnut Street to College Street
Delaware Street
Dryer Drive
Favorite Drive
Harrison Circle
Harrison Street
Hine Street
Jefferson Street

Dayton - Traffic Code

<i>Street</i>
Main Street, from Harrison Street to Delaware Street
Marquis Circle
Meadow Lane
Nicely Drive
Ohio Street
Paden Drive
Pennsylvania Street
Prairie Lane
Quabache Court
Republican Street
Ricks Drive
Shady Lane
Shakamak Court
South Street
Turkey Run Court
Washington Street
Wesleyan Drive
Yost Drive

(B) *Speed limit; 25 mph, except when schools are in session, then 20 mph.*

<i>Street</i>
College Street, from Dayton Road North to Conjunction Street
Conjunction Street, from College Street to Meadow Lane
Dayton Road North, from College Street to the northern town limits
Dayton Road North, from the northern town limits to College Street
Dayton Road South, from the southern town limits to Walnut Street
Dayton Road South, from Walnut Street to the southern town limits
Market Street, from Walnut Street to College Street

(Ord. 95-13, passed 12-28-1995; Ord. 98-14, passed 11-2-1998; Ord. 2016-7, passed 10-10-2016) Penalty, see § 70.99

[Text continues on pg. VII-43]

SCHEDULE II. COMMERCIAL VEHICLES.

(A) Drivers of commercial vehicles, same being a vehicle designed, maintained or used primarily for the transportation of property, of one-ton capacity or more, or whose gross weight exceeds eight tons, except those commercial vehicles having either their origin or destination within the town limits, are hereby prohibited from operating or driving a commercial vehicle over any town street or portions of town street, except on State Road No. 38.

(B) All commercial vehicles of one ton capacity or more, or whose gross weight exceeds eight tons, whose origin or destination is within the town limits shall proceed from its point of origin by the most direct street or streets to State Highway No. 38, and the commercial vehicles having their destination within the town limits shall proceed upon State Road No. 38 to its closest point to the point of destination, and then proceed by the most direct street or streets of the town to the point of destination.

(C) Any violation of any of the provisions of this schedule is to be declared unlawful and an infraction and any person found violating the provisions of this schedule shall be punished by a fine not less than \$100 and not more than \$500.

(Ord. 80-10, passed 8-18-1980)

SCHEDULE III. THROUGH STREETS.

The following streets are hereby designated as through streets, except where stop signs are erected.

<i>Through Streets</i>
State Road No. 38
All streets running in a north and south direction, except where the streets intersect State Road No. 38 where the state road shall have preference and be the through street

(Ord. 73-5, passed - -1973; Ord. 86-3, passed 6-2-1986) Penalty, see § 70.99

SCHEDULE IV. STOP INTERSECTIONS.

(A) Stop signs shall be erected on the following streets at the following locations.

<i>Street</i>	<i>At Street's Intersection With:</i>
At the intersection of all streets running north and south where the north and south streets intersect with	State Road No. 38
Clifty Falls Lane	Dayton Road North
Conjunction Street	College Street
Conjunction Street	Meadow Lane
Harrison Street	Main Street
Jefferson Street	Dayton Road
Jefferson Street	Conjunction Street
Market Street	Jefferson Street
Meadow Lane	Conjunction Street
Meadow Lane	Prairie Lane
Ohio Street	Conjunction Street
Ricks Drive	South Street
Shady Lane	Dayton Road
South Street	Dayton Road
Washington Street	Jefferson Street
Washington Street	Meadow Lane

(B) Where either stop signs or yield signs have been herein authorized at intersections, the signs shall be erected on both sides of the intersection.

(Ord. 73-5, passed - -1973; Ord. 83-9, passed 9-12-1983; Ord. 86-3, passed 6-2-1986; Ord. 97-4, passed 7-7-1997; Ord. 98-11, passed 10-5-1998; Ord. 13-13, passed 11-4-2013) Penalty, see § 70.99

SCHEDULE V. YIELD SIGNS.

(A) Yield signs shall be erected on the following streets at the following locations:

(1) At the intersection of all streets running in an east and west direction with streets running north and south, except at those streets where stop signs have not been above provided for, and further except on State Road No. 38; and

(2) On Prairie Lane at its junction with Washington Street.

(B) Where either stop signs or yield signs have been herein authorized at intersections, the signs shall be erected on both sides of the intersection.

(Ord. 86-3, passed 6-2-1986)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED VEHICLES**
- 91. ANIMALS**
- 92. NUISANCES**
- 93. STREETS AND SIDEWALKS**
- 94. ALARM SYSTEMS**
- 95. FAIR HOUSING**
- 96. CONSTRUCTION OF DRIVEWAYS**

CHAPTER 90: ABANDONED VEHICLES

Section

- 90.01 Definitions
- 90.02 Prohibition
- 90.03 Removal and disposal
- 90.04 Violation
- 90.05 Removal; payment of towing and storage; adherence to violation ticket
- 90.06 Revolving fund
- 90.99 Penalty

§ 90.01 DEFINITIONS.

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

ABANDONED. When used in conjunction with a term **VEHICLE** means any of the following:

(1) Any vehicle stored or allowed to remain in the open on public premises or private premises which does not have lawfully affixed thereto or displayed thereon a valid, unexpired license plate permitting its operation upon the highways in the State of Indiana.

(2) Any vehicle which is left on public premises continuously without being moved for a period of five days.

(3) Any vehicle located on public premises or private premises illegally or in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.

(4) Any vehicle which has remained on private premises without the consent of the owner or person in control of the premise for more than 48 hours.

(5) Any vehicle stored or allowed to remain in the open from which there has been removed the engine, transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises, or, on private premises for more than 15 days, unless the premises is in connection with an automotive sales or repair business enterprise which is located in a properly zoned area.

(6) Any vehicle which has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, the violation of which may require the removal and impoundment of the motor vehicle, and which motor vehicle once impounded is not claimed or redeemed by the owner or his or her agent within 30 days of its removal.

AUTOMOBILE WRECKER. An automobile wrecking and parts business.

BUREAU. The Bureau of Motor Vehicles of the State of Indiana.

COMMISSIONER. The Commissioner of the Bureau.

DISPOSAL AGENT. Any firm or individual engaged in business as a scrap metal processor or automobile wrecker.

OFFICER. Any regular member of the Indiana State Police, any town marshal or town marshal deputy or any regular member of the County Sheriff's Department.

OWNER. The last known record title holder to a vehicle according to the records of the Bureau of Motor Vehicles.

PARTS. All component parts of a vehicle which are in a state of disassembly, or are disassembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

PERSON. All natural persons, firms, partnerships and corporations.

PRIVATE PREMISES. All privately owned property which is not classified within the definition of public premises.

PUBLIC AGENCY. The department of local government which is assigned the local responsibility for removal, storage and disposal of abandoned vehicles by ordinance of the Town Council.

PUBLIC PREMISES. Any public right-of-way, street highway, alley, park or other state, county or municipally owned property.

SCRAP METAL PROCESSOR. An establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and scrap steel or nonferrous scrap for sale for remelting purposes

TOWING SERVICE. A business organized for the purpose of moving or removing disabled motor vehicles, and, once removed, to store or impound the motor vehicles.

VEHICLE. Any motor vehicle, automobile, motorcycle, truck, trailer, semi-trailer, truck, tractor, bus, school bus, house car, motor bicycle, house

trailer, or any other type of motorized or nonmotorized conveyance ordinarily pulled or attached to a vehicle

(Prior Code, § 71.01) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996)

§ 90.02 PROHIBITION.

It shall be unlawful for any person to park any vehicle on any public premises or private premises, without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent, or trustee of the property. Complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of the property to the Town Marshal of the town.

(Prior Code, § 71.02) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.03 REMOVAL AND DISPOSAL.

The Town Council and Town Marshal of the town are the agencies assigned the responsibility for removing vehicles under the provisions of this chapter.

(A) When a complaint is made to Town Marshal regarding unauthorized parking pursuant to § 90.02, the investigating officer will complete the complaint form and have it signed by the complainant. The vehicle shall be ticketed for a violation of this chapter or other ordinances of this town. The investigating officer may also direct the removal of the vehicle by a reputable towing firm to a reputable storage or parking garage if the vehicle remains illegally parked on private property for more than four hours after the vehicle was ticketed for unauthorized parking.

(B) Whenever a Town Council member, Town Marshal or Deputy Marshal find any abandoned vehicle placed or stored in the open upon public property within the town, he or she shall issue an order to the owner of the vehicle to remove the vehicle within three days. Notice of the order shall be placed upon the vehicle. If the vehicle is not removed

within three days pursuant to the order and notice, the Town Council member, Marshal or Deputy Marshal shall cause the vehicle to be removed by an automobile wrecker or towing service. The cost and expense of the removal and storage to be paid by the owner of the vehicle.

(C) (1) Whenever a Town Council member, Marshal, Deputy Marshal find any abandoned vehicle place or stored in the open upon private property within the town, he or shall issue an order to the owner of the vehicle to remove the vehicle within ten days. Notice of the order shall be placed upon the vehicle and copies of the notice shall be served upon any adult occupying the real estate on which the vehicle is located and also upon the owner of the vehicle, if his or her name and whereabouts be known. If no occupant of the real estate or owner of the vehicle can be found, a notice affixed to any building on the real estate shall constitute a notice to the owner and occupant of he real estate and to the owner of the property.

(2) If there is no building on the real estate, the notice may be affixed elsewhere on the real estate. If the vehicle is not removed within ten days pursuant to the order an notice, and if the order is not stayed by the issuing officer pursuant to a written request showing good cause for a permanent or temporary stay, the Town Council member, Marshal, or Deputy Marshal shall cause the vehicle to be removed by an automotive wrecker or towing service. The cost and expense of the removal shall be paid by the owner of the vehicle.

(Prior Code, § 71.03) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.04 VIOLATION.

In any proceeding for violation of this chapter the registration plate displayed on the motor vehicle shall constitute in evidence a prima facie presumption that

the owner the motor vehicle was the person who parked or placed the motor vehicle at the point where the violation occurred.

(Prior Code, § 71.04) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996) Penalty, see § 90.99

§ 90.05 REMOVAL; PAYMENT OF TOWING AND STORAGE; ADHERENCE TO VIOLATION TICKET.

Before the owner or person in charge of any impounded vehicle shall be permitted to remove the impounded vehicle from the custody of the owner, agent, employee, or lessee of the parking area or garage where the vehicle has been stored, he or she will pay any and all towing charges plus storage charge. He will also read and adhere to the instructions on the violation ticket placed on the vehicle by the investigating police officer.

(Prior Code, § 71.05) (Ord. 92-5, passed - -; Ord. 96-4, passed 4-1-1996)

§ 90.06 REVOLVING FUND.

There is hereby created the Town Junk Vehicle Fund which shall be a revolving fund, and all monies paid to the town for the cost of removal, storage, and disposal of abandoned vehicles shall be placed in the fund an in no other place. The fund shall also have added to it monies as may be appropriated by the Town Council and the monies also shall not revert but shall remain in the Junk Vehicle Fund.

(Prior Code, § 71.06)

§ 90.99 PENALTY.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereunder shall be fined not exceeding \$500 or be imprisoned not exceeding five days, or be subject to fine and imprisonment. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Prior Code, § 71.07)

CHAPTER 91: ANIMALS

Section

- 91.01 Adopting county animal control regulations by reference

§ 91.01 ADOPTING COUNTY ANIMAL CONTROL REGULATIONS BY REFERENCE.

(A) The Animal Control Ordinance for Unincorporated Tippecanoe County (93-25-CM) as amended, is incorporated by reference as part of this chapter and it is hereby enacted and adopted and approved as a general ordinance of the town.

(B) Two copies of the Animal Control Ordinance for Unincorporated Tippecanoe County (93-25-CM) as amended, are on file in the office of the Town Clerk-Treasurer for public inspection.
(Ord. 94-4, passed 5-2-1994)

CHAPTER 92: NUISANCES

Section

Weeds

- 92.01 Definitions; exclusions
- 92.02 Owners responsible for trimming, removal and the like
- 92.03 Filing complaint
- 92.04 Notice of violations
- 92.05 Appeals
- 92.06 Abatement by town
- 92.07 Liability

Graffiti

- 92.20 Graffiti defined
- 92.21 Graffiti removal required
- 92.22 Graffiti removal by town authorized
- 92.23 Lien for costs of graffiti removal incurred by town
- 92.24 Appeal rights
- 92.25 Recovery of cost of removal from person responsible for placing graffiti

Consumer Fireworks

- 92.35 Permitted use
- 92.99 Penalty

Statutory reference:

Removal of weeds and rank vegetation, see I.C. 36-7-10.1

WEEDS

§ 92.01 DEFINITIONS; EXCLUSIONS.

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

CONSUMER FIREWORK. Shall be defined as provided in I.C. § 22-11-14-1, as it may be amended from time to time.

DESTRUCTION ORDER. The notice served by the enforcement authority on the property owner of the ordinance violation.

ENFORCEMENT AUTHORITY. The Town Marshal, or in cases of appeal, the Town Council.

FIREWORK. Shall be defined as provided in I.C. § 22-11-14-1, as it may be amended from time to time.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

RANK VEGETATION. The uncontrolled, uncultivated growth of annuals and perennial plants.

WEEDS, GRASSES. Includes Canada thistle, thistles, johnson grass, sorghum, alum (i.e., allium), bur cucumber and shattercane, but shall not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(C) The State Cooperative Extension Service shall be the referenced technical authority for the enforcement authority with respect to the definition of exempt matters, shrubs, trees, cultivated plants and crops.
(Ord. 2016-5A, passed 10-10-2016)

§ 92.02 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners within the corporate limits of the town shall be required and be financially responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property which, at the time of notice, is in excess of ten inches in average height, and in no event exceeds 15 inches maximum height on at least 20% of the surface area of the property.

§ 92.03 FILING COMPLAINT.

Any person, including the town or any employee of the town, who believes there is a property located within the corporate limits of the town which has growing plant matter in violation of the Code of Ordinances of the town may make a written complaint and file the complaint with the Town's Clerk-Treasurer or the Clerk-Treasurer's designee. Complaints must include the printed name and signature of the complainant and dated on the date submitted to the Clerk-Treasurer or his or her designee.

(Ord. 2016-6, passed 10-10-2016)

§ 92.04 NOTICE OF VIOLATIONS.

After the Clerk-Treasurer or his or her designee has received a complaint as provided in § 92.03, the Clerk-Treasurer shall deliver the complaint to the Town Marshal or a deputy marshal within two business days. The Town Marshal or deputy marshal shall, within two business days following the delivery of the complaint by the Clerk-Treasurer or his or her designee, inspect the subject property of the complaint. If the Town Marshal or deputy marshal discovers a violation, the Town Marshal or deputy marshal shall provide written notification to the property owner and to the property occupant of the non-compliance, which notification shall be delivered and/or affixed to the property in a manner reasonably calculated to be discovered by the owner or occupant, shall also be sent to the owner and occupant by U.S.

Post, and shall also be filed with the Clerk-Treasurer. The notice shall instruct the owner and/or occupant that the property is substantially non-compliant with the town ordinance, shall cite to this chapter, and shall cite the date and time that the notice was delivered or affixed to the property, and instruct the owner and/or occupant that if the non-compliance is not cured within 72 hours from the posting of the notice, the noncompliance will be cured by the town, at the expense of the owner and/or occupant.

(Ord. 2016-6, passed 10-10-2016)

§ 92.05 APPEALS.

(A) The property owner and/or occupant may appeal the written notice from the Town Marshal or deputy marshal within 48 hours following the posting of the notice, excluding weekends and holidays, if the property owner and/or occupant contests the presence of a violation.

(B) An appeal by the property owner and/or occupant shall be brought before the Town Council at its next regularly scheduled or special meeting, and shall be decided by a majority vote of the Council members in attendance.

(Ord. 2016-6, passed 10-10-2016)

§ 92.06 ABATEMENT BY TOWN.

In the event that the property owner and/or occupant fails to cure the non-compliance as specified in § 92.04 or file a timely appeal as specified in § 92.05, the Town Marshal, deputy marshal, Clerk-Treasurer, town manager, or other designee of the Town Council may, by any lawful means, employ the services of town employees or outside contractors to cure the non-compliance on the property which is the subject of the complaint.

(Ord. 2016-6, passed 10-10-2016)

§ 92.07 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorneys' fees and interest on any unpaid amounts incurred by the town. If the enforcement authority uses municipal employees, the town shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the Town Clerk-Treasurer and to be deposited in a general fund, as compensation for expenses and costs incurred by the town.

(D) (1) Except as provided in division (D)(2), if the property owner fails to pay a bill issued under this chapter within the time specified in this chapter, the town shall certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The Auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the General Fund of the town.

(2) If the owner of real property fails to pay a bill issued under this chapter within the time specified in this chapter, the town or county may bring an action in an appropriate court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the town or county obtains a judgment under this division, the municipality or county may obtain a lien in the amount of the judgment on any real or personal property of the owner.

(I.C. 36-7-10.1-4)

GRAFFITI

§ 92.20 GRAFFITI DEFINED.

For purposes of this subchapter, the term ***GRAFFITI*** shall mean any unauthorized inscription or representation, on a building, structure, wall, sign,

fence, sidewalk, pavement, post, stone, tree or other object or structure, of any symbol, diagram, letter, word, numeral, emblem, picture, character, or combination thereof, by carving, application of paint or other substance other than as permitted by this code.

(Ord. 2012-5, passed 6-4-2012)

§ 92.21 GRAFFITI REMOVAL REQUIRED.

(A) It shall be the duty of the owner or occupant of the building, structure, wall, dumpster or other personal property upon which any graffiti has been placed to remove, cover or eradicate the graffiti.

(B) When graffiti is found to be on private property, the Police Department shall notify the property owner in writing, with a copy to the occupant if applicable, of the graffiti and request its removal within 15 days.

(C) For good cause shown, the owner or occupant may be given additional time to meet the removal requirements without being charged with a violation of this section.

(Ord. 2012-5, passed 6-4-2012) Penalty, see § 92.99

§ 92.22 GRAFFITI REMOVAL BY THE TOWN AUTHORIZED.

In addition to any fine that may be imposed, if the owner, or occupant fails to remove, cover or otherwise eradicate the graffiti within 15 days from the issuance of the notice, or such later date as the owner or occupant may be allowed, the town or its authorized agent may enter upon the property and remove such graffiti by any means necessary, and the cost of removal shall be collected from the owner or occupant of the property.

(Ord. 2012-5, passed 6-4-2012)

§ 92.23 LIEN FOR COSTS OF GRAFFITI REMOVAL INCURRED BY TOWN.

(A) Within ten days, following the removal by the town of any graffiti from private property, the town shall send the property owner a notice of intent to assess costs, detailing the cost remaining unpaid by the property owner and that, within 30 days of the date of the removal of the graffiti, the cost shall become a lien upon the real estate affected, unless appealed as provided in § 92.24, in which case the amount of the final determination shall become a lien upon the affected real estate.

(B) A town representative shall report the costs to the Town Clerk, who shall certify the costs to the County Auditor.

(C) The Auditor shall place the same on the tax duplicate as a charge against the owner of the real estate, to be collected by the County Treasurer with the state, county and municipal taxes assessed against the owner's real estate at the regular time for paying the taxes.

(Ord. 2012-5, passed 6-4-2012)

§ 92.24 APPEAL RIGHTS.

(A) The owner or occupant of the property may seek relief from the cost of the removal and abatement of the graffiti, as provided in §§ 92.22 and 92.23, by making a written request to the Town Council, providing all reasons and explanations justifying any modification or waiver of those costs.

(B) Each written request must be made within ten days after receiving the notice of intent to assess costs.

(C) The Town Council shall, at its next regularly scheduled meeting that is at least seven calendar days after receipt of such written appeal, either waive, modify or reaffirm those costs, and provide a written statement of its determination to the property owner.

(D) The determination of assessment by the Town Council shall be final and a lien shall be placed upon the affected property for all assessed costs as finally determined.

(Ord. 2012-5, passed 6-4-2012)

§ 92.25 RECOVERY OF COST OF REMOVAL FROM PERSON RESPONSIBLE FOR PLACING GRAFFITI.

The town's exercise of the remedies provided in this subchapter shall not prevent the owner or occupant from recovery, through civil suit or otherwise, of the cost of removal or other reparation from the person responsible for placing the graffiti on the owner's or occupant's property.

(Ord. 2012-5, passed 6-4-2012)

CONSUMER FIREWORKS**§ 92.35 PERMITTED USE.**

(A) This subchapter applies only to the incorporated town within the town's boundaries, as they may be annexed or disannexed from time to time.

(B) Consumer fireworks may be used or discharged within the incorporated Town of Dayton, Indiana beginning on June 29 of each year and ending on July 9 of each year.

(C) Consumer fireworks may only be used or discharged within the incorporated town on days permitted in division (B) between the hours of 5:00 P.M. and 11:30 P.M., local time or two hours after sunset, whichever is later, except that on July 4 of each year fireworks may be used or discharged from 10:00 A.M. until 12:00 midnight, and on December 31 of each year fireworks may be used or discharged beginning at 10:00 A.M. and continue until 1:00 A.M. on the immediately following January 1.

(D) The Town Marshal of the town, or any of the Town Marshal's deputies, may enforce this subchapter.

(E) The Town Marshal or Deputy Marshal may seize and dispose of consumer fireworks used in violation of this subchapter, or in the possession of individuals unlawfully using or discharging fireworks in violation of this subchapter.

(F) In addition to the seizure and disposition of consumer fireworks that are used in violation of this section or in the possession of individuals unlawfully using or discharging fireworks in violation of this section, whoever violates this chapter may be fined not more than \$250. A separate offense may be deemed committed on each day that a violation occurs or continues.

(G) Notwithstanding this subchapter, to the extent that this subchapter conflicts with Indiana law or to the extent that Indiana law imposes additional or narrower restrictions on the use of consumer fireworks, the limitations of Indiana law shall be controlling.

(Ord. 2016-5A, passed 10-10-2016)

§ 92.99 PENALTY.

At the discretion of the town or the Marshal any property owner may be fined any amount up to \$500 for a violation of this chapter. Each day shall constitute a separate violation. The property owner may be cited and fined in addition to previous provisions of this chapter.

(Ord. 2012-5, passed 6-4-2012; Ord. 2016-6, passed 10-10-2016)

CHAPTER 93: STREETS AND SIDEWALKS

Section

- 93.01 Repair by owner/occupant
- 93.02 Permit required
- 93.03 Sub-grade construction
- 93.04 Material
- 93.05 Joints
- 93.06 Driveways
- 93.07 Alleys
- 93.08 Council resolution and notice
- 93.09 Prohibition
- 93.10 Duty of owner

- 93.99 Penalty

Cross-reference:

Obstructions, see §§ 71.40 through 71.44

§ 93.01 REPAIR BY OWNER/OCCUPANT.

(A) Whenever any sidewalk within the limits of the town shall need repair or whenever any hole thereof or obstruction to free passage thereof shall exist, it shall be lawful for the owner or occupant of the lot or land bounding thereon to repair, remove or abate the same at his or her own expense after having first obtained a permit as required herein.

(B) All sidewalks made new, replace or repaired within the town shall be made in conformity with the provisions of this chapter
(Ord. 70-5, passed 1-4-1971)

§ 93.02 PERMIT REQUIRED.

Any person desiring or required to build, replace or repair any sidewalk within the town, before doing or commencing any construction work thereon except where sidewalks are to be laid in accordance with the provisions of any special improvement resolution of

the Town Council, must file an application for a permit therefor with the Clerk-Treasurer which application shall be signed by the owner or agent of the abutting property where the sidewalk is to be built, replace or repaired and the Clerk-Treasurer shall issue the permit when the plans and specifications for the sidewalk, which must be filed by the applicant when requesting a permit, are found by the Clerk-Treasurer to conform to this chapter.
(Ord. 70-5, passed 1-4-1971)

§ 93.03 SUB-GRADE CONSTRUCTION.

The sub-grade shall be constructed to the depth below the finished surface in accordance with the requirements of the Town Council as from time to time adopted thereby.
(Ord. 70-5, passed 1-4-1971)

§ 93.04 MATERIAL.

(A) All sidewalks shall be built of Portland Cement Concrete of the type and strength as the Town Council may, from time to time, adopt, and shall be depth of at least four inches, and shall be 36 inches wide or were sidewalks now exist shall be the width of the existing sidewalk.

(B) The sub-grade shall be wetted before the concrete is placed therein. The concrete shall be deposited within the forms upon the wetted sub-grade to such a depth that after being compacted it shall be to the full thickness required. It shall be leveled off and tamped sufficiently to bring the mortar to the surface after which it shall be finished smooth and even by means of a wood float. The edges shall be rounded with and edger having a radius of one-fourth inch. Transverse joints shall be cut with a jointer having a radius of one-fourth inch, at intervals not greater than the width of the sidewalk being

constructed. No concrete work shall be done during freezing weather.

(Ord. 70-5, passed 1-4-1971)

§ 93.05 JOINTS.

Expansion joints shall be used where required by the Town Council. The preformed filler to be used in the expansion joints shall be composed of a durable elastic compound of mineral or vegetable matter. The thickness shall not be less than one-half inch, the length shall be equal to the sidewalk width and the width shall not be less than the thickness of the sidewalk. Preformed filler of one-inch thickness shall be placed where the sidewalk joins with the curb or curb gutter.

(Ord. 70-5, passed 1-4-1971)

§ 93.06 DRIVEWAYS.

Where driveways are to be built across the sidewalk space they shall conform to the sidewalk grade and shall be six inches in depth of the same quality and material as specified for walks.

(Ord. 70-5, passed 1-4-1971)

§ 93.07 ALLEYS.

An alley crossing shall be constructed of concrete six inches thick, of the same finish and material as specified for walks and will be concave or straight as may be ordered by the Town Council.

(Ord. 70-5, passed 1-4-1971)

§ 93.08 COUNCIL RESOLUTION AND NOTICE.

Whenever in the opinion of the Town Council any new sidewalk shall be built or old sidewalk repaired in the town the Council shall pass a resolution affirming the fact and shall forthwith give notice to the abutting property owner or his or her agent. The notice is to be given either personally or by registered mail. The notice shall give the owner or agent 30 days from the date of the notice in which to

build or repair the sidewalk and in case the owner or agent shall fail to build or repair any sidewalk after notice is given, then the town shall proceed to build or repair the sidewalk and the costs, charges and expenses thereof shall be charged against the owner or the property and shall be collected in the same manner as assessments for street improvements. The adoption of the resolution by the Town Council shall be conclusive so far as the town is concerned of the necessity of the building or repairing of the sidewalk to render the same safe for passage thereof by pedestrians.

(Ord. 70-5, passed 1-4-1971)

§ 93.09 PROHIBITION.

No person shall store any dirt, trash, vehicles, personal property and or any other materials or objects on the sidewalks within the town and any dirt, trash, vehicles, personal property and or any other materials or objects shall be removed by the owner within 24 hours after being placed thereon. In case of construction and repair of sidewalk, all old materials must be removed within five days of the completion of work.

(Ord. 70-5, passed 1-4-1971; Ord. 2015-3, passed 5-4-2015)

§ 93.10 DUTY OF OWNER.

(A) It shall be the duty of the owner or occupant of all property adjacent to any sidewalk within the town to remove all snow and ice on the sidewalk within six hours after daylight and after the snow has ceased to fall.

(B) In addition to any penalty provided for herein if the owner or occupant fails to remove the snow or ice in the time set forth herein the town shall remove the snow or ice and the cost the removal shall be charged against the property and shall be collected in the same manner as taxes.

(Ord. 70-5, passed 1-4-1971)

§ 93.99 PENALTY.

Any person violating any provisions of this chapter shall upon conviction, be fined in any sum not less than \$5 nor more than \$50 and each day's continuance of the violation shall constitute a separate and distinct offense.

(Ord. 70-5, passed 1-4-1971)

CHAPTER 94: ALARM SYSTEMS

Section

- 94.01 Definitions
- 94.02 Registration of alarm business; agents to carry cards
- 94.03 Prohibited acts
- 94.04 Notice of violation
- 94.05 Hearing on excuse

- 94.99 Penalty

building, structure, facility or grounds, which when activated causes notification to be made directly to the Police Department or Fire Department. For the purposes of this chapter, an **ALARM SYSTEM** shall not include:

(1) An alarm installed on a motor vehicle;

(2) Alarm designed and operated so that no notification is given to the Police Department or Fire Department until after the occupants, an agent of the owner or lessee or an agent of an alarm system business have checked the alarm site and determined that the alarm was the possible or probable result of criminal activity or fire or explosion of the kind for which the **ALARM SYSTEM** was designed to give notice. The alarm shall be equipped to disconnect any exterior sounding alarm automatically within ten minutes of activation; or

(3) An alarm installed upon premises occupied by the United States, the state or any political subdivision thereof.

§ 94.01 DEFINITIONS.

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

ALARM AGENT. Any person who is employed by an alarm business either directly or indirectly, whose duties include selling, maintaining, leasing, servicing, repairing, altering, moving or installing on or in any building, structure or facility, any alarm system.

ALARM BUSINESS. Any individual, partnership, corporation or other entity who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm system or causes to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

ALARM SYSTEM. Any device used for the detection of an unauthorized entry or attempted entry into a building, structure or facility; alarm for fire, smoke, excess heat or explosion; or for alerting others of the commission of any unlawful act within a

FALSE ALARM. An alarm eliciting a police or fire response when the situation does not warrant a response. For the purposes of this chapter, this does not include alarms triggered by severe atmospheric conditions or other circumstances not reasonably under the control of the alarm user, installer or maintainer.

(Ord. 05-09, passed 2-7-2005)

§ 94.02 REGISTRATION OF ALARM BUSINESS; AGENTS TO CARRY CARDS.

(A) Prior to doing business within the town, an alarm system business shall register with the Town Clerk-Treasurer's office on a form designed by the town for that purpose. On the form, the business shall set forth:

(1) The full name and address of the alarm system business;

(2) The full name, business address and home address of the manager;

(3) A telephone number at which the Police Department and Fire Department can notify personnel of the business of a need for assistance at any time; and

(4) The name, address and date of birth of all alarm agents employed by the alarm system business.

(B) An alarm system business doing business shall have 30 days to register as required above, with a fee of \$150 per year.

(C) An alarm system business shall promptly notify the Town Clerk-Treasurer in writing of any change in the information contained in the registration form.

(D) Every alarm agent shall carry on his or her person at all times while engaged in the alarm system business an identification card, which shall be displayed to any police officer or Fire Department officer upon request.

(Ord. 05-09, passed 2-7-2005) Penalty, see § 94.99

§ 94.03 PROHIBITED ACTS.

It is a prohibited act punishable by fine as provided in this chapter to do any of the following acts:

(A) For a person who owns or controls property on which an alarm system is installed to issue, cause to be issued or permit the issuance of a false alarm;

(B) For a person who owns or controls property to install, maintain or permit to operate any alarm which automatically dials into any Police or Fire Department Public or emergency telephone line when an alarm is activated;

(C) For a person participating in the ownership or management of an alarm system business to do any business within the town without registering as required by this chapter.

(D) Each separate occurrence, under division (A) of this section, and each separate day, under divisions (B) and (C) of this section shall constitute a separate and distinct violation.

(Ord. 05-09, passed 2-7-2005) Penalty, see § 94.99

§ 94.04 NOTICE OF VIOLATION.

(A) The Town Marshal or designee may issue a notice of violation. Upon the issuance of the first three violations per calendar year of § 94.03(A) only for any specific property, any fine will be excused upon the violator submitting a written report to the Town Marshal on the cause of the alarm within two weeks of service of notice of violation. The report must show that steps have been taken to correct the problem and that the problem will not occur again in the future.

(B) The notice of violation shall state the name of the violator, the location of the violation, the date and time of the violation, the section of this chapter which was violated, the penalties for the violation and the violator's right to an appeal under any section hereof, if applicable.

(C) A notice of violation shall be served upon the violator at the violator's last known address. Service shall be complete upon the mailing (regardless of the receipt of the notice) or posting of the notice upon the property where the alarm is located.

(Ord. 05-09, passed 2-7-2005)

§ 94.05 HEARING ON EXCUSE.

Any person noticed for a violation of § 94.03(A) may petition the Town Council for a hearing to show that for some reason beyond the violator's control, the false alarm was activated. The petition for a hearing must state specifically the reasons beyond the violator's control for the activation of the alarm. The violator must also furnish the Town Council with the names and addresses of any and all witnesses as to the foregoing reasons. The petition must be filed within two weeks of service of the notice of violation. After the hearing, the Town Council, in its sole discretion, will determine whether the false alarm was activated for reasons beyond the control of the violator. If the Council does determine that it was beyond the control of the violator, the violation will be excused and no fine will be imposed.

(Ord. 05-09, passed 2-7-2005)

§ 94.99 PENALTY.

(A) The fine imposed for violation of any section of this chapter will be \$25 for the first three violations, \$50 for the next three succeeding violations, \$100 for the next three succeeding violations and \$200 for all subsequent violations. The fine structure is based on the number of violations per calendar year. The fines apply provided the fine is paid within two weeks of service of the notice of violation. Otherwise, the amount of the fine is doubled.

(B) The fine imposed will be due and payable to the Town Clerk-Treasurer's office within two weeks of the citation date. In the event that a hearing on excuse was held, the fine will be due within two weeks of the date that the decision was made.

(Ord. 05-09, passed 2-7-2005)

CHAPTER 95: FAIR HOUSING

Section

- 95.01 Policy statement
- 95.02 Definitions
- 95.03 Unlawful practice
- 95.04 Discrimination in the sale or rental of housing
- 95.05 Discrimination in residential real estate-related transactions
- 95.06 Discrimination in the provision of brokerage services
- 95.07 Interference, coercion or intimidation
- 95.08 Prevention of intimidation in fair housing cases
- 95.09 Exemption
- 95.10 Administration enforcement of chapter
- 95.99 Penalty

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the 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)

DISABILITY.

- (1) With respect to a person:

- (a) A physical or mental impairment which substantially limits one or more of a person's major life activities;
- (b) A record of having an impairment;
- (c) Being regarded as having an impairment;
- (d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990; and
- (e) Any other impairment defined under I.C. 22-9.5-2-10.

§ 95.01 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, being 42 U.S.C. §§ 2000e et seq., the Federal Housing and Community Development Act of 1974, as amended, being 42 U.S.C. §§ 5401 et seq., and I.C. 22-9.5-1 et seq.
(Ord. 97-8, passed 9-2-1997)

§ 95.02 DEFINITIONS.

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

(2) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802; or does the term **DISABILITY** include an individual solely because that individual is a transvestite.
(I.C. 22-9.5-2-10(b) and 22-9.5-2-10(c))

DISCRIMINATORY HOUSING PRACTICE.

An act that is unlawful under §§ 95.04, 95.05, 95.06, 95.07 or 95.08 of this chapter 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, and 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. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 of age in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. Includes a single individual with the status of the **FAMILY** being further defined in the definition of familial status.
(I.C. 22-9.5-2-9)

PERSON. Includes 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 Title 11 of the United States Code, receivers and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.
(I.C. 22-9.5-2-13)
(Ord. 97-8, passed 9-2-1997)

§ 95.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below, § 95.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 95.04 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 § 95.04 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 single-family houses at any one time; provided that in the sale of a single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one 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 single-family houses at any one time. The sale or rental of any single-family house shall be excepted from application of this section only if the 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 broker, agent or salesman or person; or

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 95.04(C) of this chapter, but nothing

in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other 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 the 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. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 95.03 and except as exempted by §§ 95.03(B) and 95.09, it shall be unlawful:

(A) 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, familial status, disability or national origin;

(B) 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 therewith, because of race, color, religion, sex, familial status, disability or national origin;

(C) 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, disability, familial status or national origin, or an intention to make the preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce 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, disability, familial status or national origin; and/or

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability 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.

(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 or facilities in connection with the dwelling, because of a disability of:

(a) The person;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or

(c) Any person associated with that person.

(3) For purpose of this division, discrimination includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the 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 modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the 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, 1988, a failure to design and construct those dwellings in a manner that:

1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the 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;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans with Disabilities Act of 1990, being 42 U.S.C. §§ 12101 et seq., and the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117-1") suffices to satisfy the requirements of division (F)(3)(c)3 above.

(5) Nothing in this division 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 of whose tenancy would result in substantial physical damage to the property of others.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.05 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 a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, 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, disability or familial status.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

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 access, membership or participation on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.07 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 §§ 95.03, 95.04, 95.05 or 95.06.

(Ord. 97-8, passed 9-2-1997) Penalty, see § 95.99

§ 95.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, 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; or

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A) above: and

(2) Affording another person or class of persons opportunity or protection so as to participate. (Ord. 97-8, passed 9-2-1997)

§ 95.09 EXEMPTION.

(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 division (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 those persons, unless membership in 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 the lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

(a) 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 persons, as defined in the state or federal program;

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 97-8, passed 9-2-1997)

§ 95.10 ADMINISTRATION ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) hereof shall be vested in the chief executive officer of the town.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the articles of the Ordinance by complainants to the State Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Chief Elected Officer of the town shall refer all complaints to Commission as provided for under division (A) above to the 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 executive officer and the Commission to further those purposes.

(D) The chief executive officer of the town, or the chief executive officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting information.

(Ord. 97-8, passed 9-2-1997)

§ 95.99 PENALTY.

Any citizen because he or she is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in § 95.08, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for 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. 97-8, passed 9-2-1997)

CHAPTER 96: CONSTRUCTION OF DRIVEWAYS

Section

- 96.01 Definitions
- 96.02 Prohibition

§ 96.01 DEFINITIONS.

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

DRIVEWAY. Any area that is used by the owner of any property to move or drive any motor vehicle from a dedicated street in the town onto private property. The **DRIVEWAY** shall be that area from a dedicated street to any garage, carport or area used to park the motor vehicle or to load and unload passengers or driver from the motor vehicle.

HARD SURFACE. A surface constructed of concrete or asphalt of a depth to support motor vehicles or crushed stone or gravel of a depth of four inches. Any crushed stone or gravel is to be dirt free and be of individual stones or rock of at least one-half inch in width and depth.

OFF-STREET PARKING AREA. The area on private property that is required by any ordinance of the town, to be set aside for the parking of motor vehicles.

(Prior Code, § 84.01) (Ord. 83-2, passed 6-6-1983)

§ 96.02 PROHIBITION.

From and after the effective date of this chapter, it shall be unlawful for the owner of any property in the town, to construct or place on any private property any driveway or off-street parking area, or to use any part of private property for any driveway or off-street parking area where the use was not the normal use thereof prior to the effective date of this chapter, without constructing, placing or so using the driveway or off-street parking area with a hard surface.

(Prior Code, § 84.02) (Ord. 83-2, passed 6-6-1983)
Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. SOLICITATION**
- 111. BONDING OF CONTRACTORS**
- 112. LIQUOR RETAILERS**

CHAPTER 110: SOLICITATION

Section

110.01	Registration required	(1) The name, home address and local
110.02	Application; identification; fingerprints; bonds	address, if any, of the applicant.
110.03	License	(2) Physical description of the applicant,
110.04	Non-transferable	setting forth the applicant's age, height, weight, color
110.05	Exemption	of hair and eyes.
110.06	Conduct of solicitor	(3) The name and address of the person for
110.07	Public activity	whom or through whom orders are to be solicited or
		cleared.
110.99	Penalty	(4) The nature of goods, wares or
		merchandise form which orders are to be solicited.

§ 110.01 REGISTRATION REQUIRED.

It shall be unlawful for any person, or sponsoring agents, hawker, peddler or itinerant dealer in goods, wares, merchandise, services or subscriptions to any kind of publication, to offer the same for sale from door to door, office to office, or place to place, or on any street, sidewalk or highway within, or by telephone from and within the town, for either present or future delivery, without having first registered with the Town Marshal, and having his or her credentials stamped as provided in § 110.02 or § 110.03 below. Registration shall not constitute a permit to enter privately policed areas or private property. (Ord. 92-3, passed 11-2-1992)

§ 110.02 APPLICATION; IDENTIFICATION; FINGERPRINTS; BOND.

(A) An applicant for permission to solicit orders hereunder shall complete an application blank provided by the Town Marshal, which application blank shall contain the following information:

(1) The name, home address and local address, if any, of the applicant.

(2) Physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes.

(3) The name and address of the person for whom or through whom orders are to be solicited or cleared.

(4) The nature of goods, wares or merchandise form which orders are to be solicited.

(5) A statement as to whether the applicant has been convicted of any crime or misdemeanor, and if so, what and where.

(6) A statement as to the period during which the applicant intended to solicit orders.

(B) Applicants applying for a license from the Town Marshal shall post a \$1,000 bond in favor of the town and approved by the Town Marshal, and shall pay a license application fee of \$10.

(C) The applicant, at the time of executing the application blank, shall also submit identification satisfactory to the Town Marshal which shall contain a specimen of the applicant's signature and a complete set of fingerprints.

(Ord. 92-3, passed 11-2-1992)

§ 110.03 LICENSE.

Upon compliance by the applicant with the provisions of § 110.02, the Town Marshal shall thereupon issue a license to the applicant, which license shall set forth the name and address of the applicant and of his or her employer, if any, the nature of the goods, wares or merchandise form which orders are to be solicited and the period during which the applicant may solicit orders, which shall not exceed one month; provided, that the Town Marshal shall not be required to grant the permission to any person who shall have been convicted of any crime or misdemeanor involving moral turpitude.

(Ord. 92-3, passed 11-2-1992)

§ 110.04 NON-TRANSFERRABLE.

License so issued shall be non-transferrable and shall entitle the holder thereof, for the period indicated therein, unless revoked, to solicit orders within the town for the purchase of the goods, wares or merchandise specified in the license; provided, that holder shall have his or her license in his or her possession at all times while soliciting orders and shall exhibit the same at any time upon request by an officer of the town or prospective purchaser.

(Ord. 92-3, passed 11-2-1992)

§ 110.05 EXEMPTION.

Sections 110.01, 110.02, 110.03 and 110.04 hereof shall not apply to solicitors or sponsoring agents in the following conditions:

(A) Where the actual solicitor or solicitors are then enrolled, as a student in any grade one through 12 in any school located in Tippecanoe County, Indiana.

(B) Where the sponsoring agent or organization is an Indiana Not-For-Profit Organization or a recognized organization of any accredited school in Tippecanoe County, Indiana.

(C) Where the provisions of division (A) and (B) above are both met, the sponsoring agent or organization shall make a written request in duplicate to the Town Marshal of the town, setting forth the organization for whose benefit the solicitations will be made, the item or items to be sold, and the name of the individual solicitors who will make solicitation in the town. The Town Marshal when he or she is satisfied the conditions have been met, shall endorse his or her approval on the written request and return one copy to the sponsoring agent, who shall furnish each solicitor when soliciting in the town, which copy shall be exhibited at any time upon request of any officer of the town or prospective purchaser.

(D) No fee or bond shall be required of the sponsoring agent or its solicitors.

(Ord. 92-3, passed 11-2-1992)

§ 110.06 CONDUCT OF SOLICITOR.

Any person soliciting within the town, whether or not required to register, shall conform to the following regulations:

(A) The solicitor shall conduct himself or herself at all time in an orderly and lawful manner.

(B) The solicitor shall give a written receipt for all orders taken within the town, which receipt shall be signed by the solicitor and shall set forth a brief description of the goods, wares or merchandise ordered, the total purchase price thereof and the amount of the down payment received by the solicitor from the purchaser.

(Ord. 92-3, passed 11-2-1992)

§ 110.07 PUBLIC ACTIVITY.

This chapter shall not apply to any solicitations, where the Town Council by resolution has approved at public activity and at the location specified therein.

(Ord. 92-3, passed 11-2-1992)

§ 110.99 PENALTY.

Any person violating any of the provisions of this chapter or making any false statements of fact for the purpose of obtaining permission to solicit orders shall be guilty of an infraction and upon conviction shall be fined in the sum of \$500. Upon any registered person being convicted of any crime or misdemeanor or infraction under this chapter or involving moral turpitude, the license of the person shall be delivered to the Town Marshal and the license cancelled, and the person shall not thereafter solicit orders in the town without re-registering.

(Ord. 92-3, passed 11-2-1992)

CHAPTER 111: BONDING OF CONTRACTORS

Section

- 111.01 Bond required
- 111.02 Trades requiring bonding
- 111.03 Permits
- 111.04 Use of bond
- 111.05 Reinstatement and termination

account of negligence, want of skill or failure to comply with the various building codes and county ordinances then in effect in the county. The bond must be submitted to and approved by the County Building Commissioner.
(Prior Code, § 85.01) (Ord. 97-5, passed 7-7-1997)

§ 111.01 BOND REQUIRED.

(A) No person, sole proprietor, partnership, corporation or limited liability company not already under bond to the town shall contract to perform any of the trades listed in § 112.02 in or upon any building in the town, unless they shall first give bond to the Town Council, with one or more sureties, in the penal sum of \$10,000 (each trade), conditioned that they will in good faith perform all things required of them under the provisions of the various ordinances and building codes then in effect, and conditioned further that they will pay all damages and save the town harmless on account of negligence, want of skill or failure to comply with the various building codes and county ordinances then in effect in the town. The bond must be submitted to and approved by the County Building Commissioner.

(B) No person, sole proprietor, partnership, corporation or limited liability company not already under bond to the town shall do business as a general contractor if the town, unless they shall first give bond to the Town Council, with one or more sureties, in the penal sum of \$25,000, conditioned that they will in good faith perform all things required of them under the provisions of the various ordinances and building codes then in effect, and conditioned further that they will pay all damages and save the town harmless on

§ 111.02 TRADES REQUIRING BONDING.

The following trades shall supply and a compliance bond as described in § 111.01:

- (A) Brick and block mason;
- (B) Building demolition;
- (C) Building movers;
- (D) Carpentry;
- (E) Concrete;
- (F) Drywall, lathing and plastering;
- (G) Electrical;
- (H) Fire protection equipment installation;
- (I) Glazing;
- (J) Heating and air conditioning;
- (K) Insulation;
- (L) Plumbing;
- (M) Painting;

(N) Roofing;

(O) Siding;

(P) Sign installation;

(Q) Structural iron;

(R) Swimming pool installation; and

(S) Any other construction trade.

(Prior Code, § 85.02) (Ord. 97-5, passed 7-7-1997)

enforcement or compliance, the contractor or subcontractor must replenish the bond in the full amount and maintain it on an annual basis.

(B) No bond shall be terminated without written notice to the town 30 days before the termination date. (Prior Code, § 85.05) (Ord. 97-5, passed 7-7-1997)

§ 111.03 PERMITS.

No permit to perform the trades listed in § 111.02 shall be issued unless a compliance bond is on file with the town and the County Building Commission.

(Prior Code, § 85.03) (Ord. 97-5, passed 7-7-1997)

Penalty, see § 10.99

§ 111.04 USE OF BOND.

(A) Should the town be required to expend its funds in enforcing its ordinances pertaining to a permit against any contractor or subcontractor whose compliance bond it holds, the town may seek reimbursement against that bond for its cost of enforcement.

(B) Should the town be required to expend its funds to repair damages caused by noncompliance with its ordinances pertaining to a permit against any contractor or subcontractor whose compliance bond it holds, the town may seek reimbursement against the bond.

(Prior Code, § 85.04) (Ord. 97-5, passed 7-7-1997)

§ 111.05 REINSTATEMENT AND TERMINATION.

(A) Compliance bonds shall be maintained in the full amount required by this chapter. If the bond, or a portion of it is used to reimburse the town for costs of

CHAPTER 112: LIQUOR RETAILERS

Section

112.01 Town consent to issue permits

112.02 Terms of permit

§ 112.01 TOWN CONSENT TO ISSUE PERMITS.

The consent of the town by its Town Council be and the same is hereby given and granted unto the proper legal authorities of the state, to issue liquor retailer's permit for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the town, all agreeable to the provisions of I.C. 7.1-3-9, as added by Acts 1973, Pub. L. No. 55, § 1, p. 290.
(Ord. 83-8, passed - -)

§ 112.02 TERMS OF PERMIT.

This enabling chapter and any liquor retailer's permit issued hereafter contain no conditions, exceptions or limitations and are subject to the terms of I.C. 7.1-3-9 and the proper legal authorities of the state under the alcoholic beverage laws of the state.
(Ord. 83-8, passed - -)

TITLE XIII: GENERAL OFFENSES

Chapter

130. WEAPONS

131. INTOXICATING SUBSTANCES

CHAPTER 130: WEAPONS

Section

Firearms on Town Property

- 130.01 Prohibition
- 130.02 Signs required
- 130.03 Exemptions

Discharge of Firearms, Guns, Pistols, Sling Shots and Other Mechanical Devices

- 130.15 Prohibition of firearms
- 130.16 Throwing stones, material and other missiles
- 130.17 Exemptions
- 130.99 Penalty

FIREARMS ON TOWN PROPERTY

§ 130.01 PROHIBITION.

No person shall carry a concealed firearm in or on any property, park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to the buildings, upon which appropriate signage has been placed indicating that concealed firearms are prohibited therein.

Penalty, see § 130.99

§ 130.02 SIGNS REQUIRED.

Signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premises or park. The town shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premises or park.

§ 130.03 EXEMPTIONS.

(A) The prohibitions set forth in this subchapter shall not apply to persons who are exempt from concealed weapons prohibitions under state or federal law or to any duly authorized local, state or federal law enforcement officer while on duty.

(B) The prohibitions set forth in this chapter shall not apply to highways or public highways owned or administered by the town.

DISCHARGE OF FIREARMS, GUNS, PISTOLS, SLING SHOTS AND OTHER MECHANICAL DEVICES

§ 130.15 PROHIBITION OF FIREARMS.

It shall be unlawful for any person to shoot fire or discharge or cause to shoot, fire or discharge any firearms of any description including, but not limited

to any gun, air gun, air pistol, beebee gun or other mechanical devices which shoot or throw shots, bullets, stones, lead balls, BBs or other missiles within the town.

(Prior Code, § 91.01) (Ord. 73-6, passed - -1973)
Penalty, see § 130.99

§ 130.16 THROWING STONES, MATERIAL AND OTHER MISSILES.

It shall be unlawful for any person to throw, propel or shoot any stone, material or other missile by means of any sling shots, bow or other device within the town.

(Prior Code, § 91.02) (Ord. 73-6, passed - -1973)
Penalty, see § 130.99

§ 130.17 EXEMPTIONS.

This subchapter shall not prohibit any Marshal, animal warden, Sheriff or other police officer from discharging firearms in performance of his or her official duty nor prohibit any citizen a firearm when lawfully defending his or her person, property or family from physical injury from anything.

(Prior Code, § 91.03) (Ord. 73-6, passed - -1973)

§ 130.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Discharge of firearms.* The violation of any of the provisions of §§ 130.15 through 130.17 shall be punished by a fine not exceeding \$100 or imprisonment not exceeding 30 days or both.

(Ord. 73-6, passed - -1973)

CHAPTER 131: INTOXICATING SUBSTANCES

Section

131.01 Prohibited

§ 131.01 PROHIBITED.

(A) It is hereby declared to be unlawful for any person to sell, publicly display for sale or attempt to sell, give or barter any herbal based or chemical substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N”Ice, Pulse, Solitude or Voodoo or any other herbal or chemical based substance containing any of the following within the city limits of the town to wit:

(1) Salviadinorum or salvinourm A: all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, these seeds thereof any extract from any part of the plant, and every compound, manufacture, salts derivative, mixture or preparation of the plan, its seeds or extracts.

(2) (6A, 10Ar)-9-(hydroxymethyl)-6, 6dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210;

(3) 1-Pentyl-3-(1-naphtholyl)indole - some trade or other names: JWH-018/spice;

(4) 1-Butyl-3-(1-naphtholyl)indole - some trade or other names: JWH-073;

(5) 1-(3-[trifluoromethylphenyl]) piperazine - some trade or other names: TFMPP;

(6) Cannibicyclohexanol, a substance also known as 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol:

(7) CP-47, 497, a substance also known as 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol;

(8) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone;

(9) Or any similar analogs.

(B) If any of the aforementioned substances are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

(C) It is not an offense under division (A) above, if the violation:

(1) Arises out of actions taken at the direction of an authorized agent of the town to enforce and ensure compliance with this law prohibiting the sale of the aforementioned substance.

(2) Arises out of or in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(D) This section does not apply to any person who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe the act.

(E) Any person found to be in violation of this section will be assessed a fine of up to \$250. Each day a violation occurs will constitute a separate offense.
(Ord. 10-15, passed 10-11-2010)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. SUBDIVISION REGULATIONS**
- 152. ZONING REGULATIONS**

CHAPTER 150: BUILDING REGULATIONS

Section

Building Code

- 150.001 Title
- 150.002 Purpose
- 150.003 Authority
- 150.004 Scope
- 150.005 Adoption of regulations by reference
- 150.006 Application for permits
- 150.007 Permit required
- 150.008 Other regulations
- 150.009 Fees other than electrical permits
- 150.010 Review of application
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- 150.012 Entry
- 150.013 Stop order
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Building Site Procedure

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- 150.031 On-site
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Uniform Construction and Utility Service Requirements

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- 150.046 Annexation and utility extension
policy
- 150.047 Compliance
- 150.048 Plan submittal and review procedures
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- 150.050 Easement requirements
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- 150.052 Change in plans
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- 150.055 Submittal, review and inspection fees
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Unsafe Buildings

- 150.070 Authority
- 150.071 State law adopted by reference
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- 150.073 County Building Commissioner
- 150.074 Conflicting provisions
- 150.075 Definitions
- 150.076 Standards
- 150.077 Unsafe Building Fund
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BUILDING CODE

§ 150.001 TITLE.

This subchapter and all ordinances supplemental or amendatory hereto shall be known as the “Building Code of Dayton, Indiana,” may be cited as such, and will be referred to herein as “this code.”
(Prior Code, § 80.01) (Ord. 95-16, passed 12-28-1995)

§ 150.002 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, limb, health, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and structures.

(Prior Code, § 80.02) (Ord. 95-16, passed 12-28-1995)

§ 150.003 AUTHORITY.

(A) The County Building Commissioner is hereby authorized and directed to administer and enforce all of the provision of this code. Whenever in the building regulations, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Town Council, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no provision shall be construed as giving any officer discretionary powers as to what regulation, codes or standards shall be, or power to require conditions not prescribed by ordinances or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(B) The Building Commissioner, after having been designated as the officer of a single agency to administer and enforce building regulation, shall be authorized to issue building permits, collect permit fees, perform inspections, order correction of violations of building regulations and authorize occupancy of buildings and structures situated within the incorporated areas of the town.

(C) The provisions of this section are subject to the issuance of an improvement location permit by the administrative officer of the town pursuant to the Unified Zoning Ordinance.

(Prior Code, § 80.03) (Ord. 95-16, passed 12-28-1995)

§ 150.004 SCOPE.

The provisions of this code apply to the construction, demolition, alterations, structural repair, use, occupancy, maintenance and additions to all buildings and structures other than fences, mobile structures and/or industrialized buildings certified under I.C. 22-15-4 in the town, except storage buildings of 120 square feet or less and not construed on a masonry or concrete foundation.

(Prior Code, § 80.04) (Ord. 95-16, passed 12-28-1995)

§ 150.005 ADOPTION OF REGULATIONS BY REFERENCE.

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of I.A.C. Title 675 are hereby incorporated by reference in this subchapter and shall include later amendments to those articles as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein:

(1) Articles 13—Building Codes:

- (a) Fire and Building Safety Standards;
- (b) Indiana Building Code;
- (c) Indiana Building Code Standards;

and

(d) Indiana Handicapped Accessibility Code.

(2) Article 14—One- and Two-Family Dwelling Code (675 I.A.C. 14-4):

(a) Council of American Building Officials One- and Two-Family Dwelling Code;

(b) CABO One- and Two-Family Dwelling Code; Amendments;

(c) Standard for Permanent Installation of Manufactured Homes; and

(d) Section R-309.6—Ground Covering: The entire ground surface of the under-floor space shall be covered with a vapor barrier having a maximum permeability rating of one perm.

(3) Article 16—Plumbing Codes: Indiana Plumbing Code;

(4) Article 17—Electrical Code:

(a) Indiana Electrical Code, including Article 547 (Agricultural Building); and

(b) Safety Code for Health Care Facilities.

(5) Article 18—Mechanical Codes: Indiana Mechanical Code;

(6) Article 19—Energy Conservation Codes:

(a) Indiana Energy Conservation; and

(b) Modifications to the Model Energy Code.

(7) Article 20—Swimming Pool Code: Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes and standards are on file in the office of Building Commissioner.

(Prior Code, § 80.05) (Ord. 95-16, passed 12-28-1995)

§ 150.006 APPLICATION FOR PERMITS.

No permits shall be issued for the foregoing purposes, unless the application for a permit is accompanied by plans and specifications showing the work to be done. All plans for building construction under the authority of the Fire Prevention and

Building Safety Commission of the state must also be filed with the State Building Commissioner if a state permit is required. No local permits shall be issued hereunder until a copy of a design release from the State Building Commissioner is received by the County Building Commissioner if a design release is required. No permit shall be issued until an improvement location permit has been approved in writing by the administrative officer of the town pursuant to the Unified Zoning Ordinance and Unified Subdivision Ordinance.

(Prior Code, § 80.06) (Ord. 95-16, passed 12-28-1995)

§ 150.007 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, demolition, alteration or repair of any building or structure, using forms furnished by the Building Commissioner. All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid to the county.

(A) A building permit expires and comes void if:

(1) The work authorized by the permit is not started within one year from the date of issuance;

(2) The work authorized by the permit is suspended or abandoned for six months; and/or

(3) The work authorized by the permit is not completed within two years from the date of issuance.

(B) The Building Commissioner may grant extensions to these time limitations provided that the extension request is submitted prior to the expiration date of the permit.

(Prior Code, § 80.07) (Ord. 95-16, passed 12-28-1995)

§ 150.008 OTHER REGULATIONS.

All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, including, without limitation, the

Unified Zoning Ordinance and Unified Subdivision Ordinance, and in addition to the fees for permits herein after provided for, there shall be paid the fees prescribed in the ordinances.

(Prior Code, § 80.08) (Ord. 95-16, passed 12-28-1995)

§ 150.009 FEES OTHER THAN ELECTRICAL PERMITS.

(A) One- and two-family dwelling fees are based on the square footage of the buildings with the exterior measurements used in determining the building area. The fees are \$0.11 per square foot up to 2,000 square feet, and then \$0.09 per square foot for each additional square foot over 2,000 (this includes attached garages) and \$0.06 per square foot for basements.

(B) Detached garages and livestock confinement buildings fees are based on square footage with the exterior measurements used in determining the building area, the fee is \$0.06 per square foot or \$25, whichever is greater.

(C) Pole structure fees are based on the square footage of the buildings with the exterior measurements used in determining the building area. The fee is \$0.025 per square foot or \$25, whichever is greater.

(D) (1) All other buildings not listed above (divisions (A) through (C)) will continue to have their fees determined by the following system; \$25 for the first \$1,000 of estimated value, then \$2 for each additional \$1,000 of estimated value up to \$1,000,000, then \$0.10 for each additional \$1,000 of estimated value over \$1,000,000.

(2) This group of buildings includes all Class 2 structures, grain bins, yard bins, carports, room additions and other miscellaneous structures.

(E) Electrical permit fees are \$35 for electrical services up to and including 200 amperes and \$60 for electrical services over 200 amperes.

(F) A reinspection fee of \$20 will be charged for the third and subsequent inspections on a project for the same violation. Reinspection fees must be paid before subsequent inspections will be made. If the inspections are on an electrical service, the fee shall be paid before the service will be approved for connection.

(G) A surcharge of \$50 will be added to permit fees on buildings where construction is started without first obtaining a building permit.

(Prior Code, § 80.09) (Ord. 95-16, passed 12-28-1995)

§ 150.010 REVIEW OF APPLICATION.

Prior to the issuance of any building permit hereunder, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with provisions of this subchapter;

(B) Provide the application to administrative officer for zoning compliance review and issuance of an improvement location permit;

(C) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will comply with the Unified Zoning Ordinance of the town; and

(D) An application for a building permit becomes null and void if the applicant does not secure the permit within 90 days after its approval.

(Prior Code, § 80.10) (Ord. 95-16, passed 12-28-1995)

§ 150.011 INSPECTIONS.

After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to make, inspections of the work being

done under the permit as are necessary to ensure full compliance with the provisions of this subchapter and the terms of the permit.

(Prior Code, § 80.11) (Ord. 95-16, passed 12-28-1995)

§ 150.012 ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him or her by this code.

(Prior Code, § 80.12) (Ord. 95-16, passed 12-28-1995)

§ 150.013 STOP ORDER.

Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(Prior Code, § 80.13) (Ord. 95-16, passed 12-28-1995)

§ 150.014 CERTIFICATE OF OCCUPANCY.

No final approval of construction for any building or structure erected, altered or repaired after the adoption of this subchapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this subchapter and the Unified Zoning Ordinance with the town.

(Prior Code, § 80.14) (Ord. 95-16, passed 12-28-1995)

§ 150.015 STANDARDS.

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner

according to accepted standards and practices in the trade.

(Prior Code, § 80.15) (Ord. 95-16, passed 12-28-1995)

§ 150.016 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(Prior Code, § 80.16) (Ord. 95-16, passed 12-28-1995)

§ 150.017 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision first through the Town Council and then to the County Board of Commissioners and then to the Fire Prevention and Building Safety Commission of the state in accordance with the provisions of I.C. 22-13-2-7 or I.C. 4-21.5-3-7, as applicable.

(Prior Code, § 80.17) (Ord. 95-16, passed 12-28-1995)

§ 150.018 REMEDIES.

The Building Commissioner shall in the name of the Town Council bring actions in the County Circuit Court, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner, and any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this subchapter.

(Prior Code, § 80.18) (Ord. 95-16, passed 12-28-1995)

§ 150.019 BUILDING PERMITS.

(A) No building permit shall be issued for the construction, extension, remodeling, alteration or repair of any proposed or existing building in the town, except single-family dwelling houses in approved subdivisions, until the plans for the construction, extension, remodeling, alteration or repair have been approved in writing by the County Drainage Board.

(B) No building permit shall be issued until the plans have been found to be in compliance with the Unified Zoning Ordinance and Unified Subdivision Ordinance of the town and an improvement location permit has been issued by the administrative officer of the town.

(Prior Code, § 80.20) (Ord. 95-16, passed 12-28-1995) Penalty, see § 150.999

BUILDING SITE PROCEDURE**§ 150.030 DEFINITIONS.**

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

SOLIDS. Stone, sand, dirt, gravel, mud, broken dishes, bottles, pottery, old iron, junk metals, ashes, cinders and all other substances of a permanent nature and as such are not subject to speedy decay or the generation of noisome and offensive odors, including construction debris.

WASTES. Broken or cut down trees, tree leaves, old rags, tin cans, paper, sweepings, wood or paper boxes, crates, sacks and all other debris and accumulation of waste from dwellings and business houses and the yards and grounds thereof as are not within the definition of garbage or solids as herein contained and are not susceptible of speedy packing into solid fillings when gathered and dumped on the ground in the work of filling and leveling of ground surfaces.

(Ord. 02-12, passed 11-4-2002)

§ 150.031 ON-SITE.

A dumpster may be used but is not required. Trash must be contained either in an enclosure constructed of posts and type of temporary barrier fence, within the structure or garage that is being built. The dumpster or trash enclosure shall be visible on-site within ten days after the building permit is issued. No metal dumpsters are to be placed on streets. All trash must be disposed of regularly. No open piles of construction debris will be allowed.

(Ord. 02-12, passed 11-4-2002) Penalty, see § 150.999

§ 150.032 STREETS AND ALLEYS.

It is unlawful for any person to throw or deposit any ashes, dirt, chips, wood, garbage, waste or solids in any street, alley or other public place or to drive or haul the wastes or solids so as to scatter about or litter them on any street, alley, gutter or adjoining premises of the town or into any stream or watercourse, or ditch running into, through or adjacent to the town or any part of the town.

(Ord. 02-12, passed 11-4-2002) Penalty, see § 150.999

§ 150.033 ENFORCEMENT.

(A) The town will contact the builder indicated on the building permit if there is a trash problem at a building site or mud or gravel in the street next to the building site. This contact will either be over the phone or as a warning letter.

(B) A site should be reasonably clean within 48 hours unless the weather interferes.

(C) If the problem is not remedied in a reasonable amount of time, a stop work order will be issued to the subcontractors on-site and followed up by a phone call to the builder from the Town Clerk-Treasurer.

(D) The builder is responsible for making arrangements for a site re-inspection within 48 hours of the stop work order. If the site is in compliance, a phone call will be made to the builder to proceed with construction. If the site is not in compliance, the stop work order will continue to be enforced, along with penalties.

(Ord. 02-12, passed 11-4-2002)

UNIFORM CONSTRUCTION AND UTILITY SERVICE REQUIREMENTS

§ 150.045 OBJECTIVES.

The objectives of this subchapter are:

(A) To guide the future growth and development of the town and to ensure that public facilities and services are available and will have sufficient capacity to serve proposed development areas;

(B) To establish policy and procedures relating to the annexation of property to the town and the extension of utilities beyond the corporate limits of the town;

(C) To set forth guidelines and standards for the design, installation and inspection of public facilities to serve proposed development areas;

(D) To establish procedures for submittal and review of proposed development plans including review fees and submittal requirements; and

(E) To ensure proposed development for the town is consistent with the policies and procedures of adjoining jurisdictional areas.

(Ord. 99-6, passed 6-7-1999)

§ 150.046 ANNEXATION AND UTILITY EXTENSION POLICY.

(A) Where town utilities are extended beyond the current town corporation limits and prior to rendering water or sewer utility service to properties outside the current town corporate limits, the landowner of the property to be served shall agree to the following:

(1) Jointly cooperate with the town to annex the property into the town corporate limits; or

(2) If the property cannot be legally annexed to the town, to enter into an agreement wherein the landowner and his or her successors in interest waive their right to object to annexation. The agreement is to be recorded, and as such will constitute notice to and be binding upon successors in interest to the real estate described in the agreement.

(B) All potential utility customers shall enter into an agreement with the town (utility service agreement). This agreement describes the terms and conditions for provision of utility service (water and sewer) to a proposed residential, commercial or industrial development including any fees and terms of fee payment.

(C) Extension of water and sewer lines from the point of connection into the existing municipal system to and throughout the proposed development shall be the responsibility of the owner/developer of the subdivision or addition, and shall be at his or her sole expense. The materials, design, layout and construction of the proposed extension of utilities shall be subject to the acceptance and approval of the Town Council or its authorized representative.

(D) In order to facilitate future expansion or development, the town may require the developer to oversize utility lines or extend utilities through the proposed development. Costs for oversizing and/or extension beyond the area to be served by the developer will be the responsibility of the town.

(Ord. 99-6, passed 6-7-1999)

§ 150.047 COMPLIANCE.

(A) In addition to the requirements of this subchapter, compliance with the requirements set forth in the Zoning, Subdivision and Drainage Ordinances of the county; the sewer and water ordinances of the town; and any other applicable ordinances with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, construction, inspections, appeals and similar matters, and compliance with applicable state statutes and regulations shall be required.

(B) No sewer or water permits shall be issued for development in the town or proposed annexation or other service areas (except single lot, single-family residences) until the plans for the construction, extension, remodeling, alteration or repair have been approved in writing by the Town Council or its authorized representative. The process for obtaining plan approval is outlined in § 150.048.

(C) No sewer or water service shall be provided until all construction is complete and inspected to the satisfaction of the Town Council or its authorized representative, and as-built information is submitted to and approved by the Town Council or its authorized representative.

(D) No utility service, water or sewer will be provided until all technical and monetary matters have been satisfied.

(E) Payment of all required plan review fees and utility fees shall be made to the town prior to the issuance of any utility connection (tap) permits.

(F) Notification of the town utility personnel is required prior to initiation of construction activity and/or to connection the system.
(Ord. 99-6, passed 6-7-1999)

§ 150.048 PLAN SUBMITTAL AND REVIEW PROCEDURES.

(A) *Development guide.* A developer and/or owner is required to purchase a development guide which includes: a plan submittal checklist, plan review checklist, development procedure checklist, all applicable ordinances, *Typical Construction Guidelines and Details*, inspection checklist and all other applicable development requirements and information of the town.

(B) *Preliminary/conceptual plan submittal.*

(1) Upon review of the town's requirements, the developer/owner shall provide the Town Council or its authorized representative a preliminary/conceptual plan of the proposed development.

(2) Submittal requirements for the preliminary/conceptual plan shall be as outlined in the development guide.

(3) The developer shall pay a plan review fee at the time of a submittal of preliminary/conceptual plan. Review fees are outlined in § 150.055.

(4) The Town Council or its authorized representative shall review the preliminary/conceptual plan and provide corrective comments, approval or denial of the preliminary/conceptual plan. The owner/developer may be required to attend a meeting with the Town Council to answer questions or provide additional information concerning the proposed development.

(C) *Utility service agreement.* Following preliminary/conceptual plan approval, the developer/owner shall enter into a utility service agreement with the town. This agreement describes the terms and conditions for provision of utility service (water and sewer).

(D) *Detailed construction plan submittal.*

(1) The developer/owner shall provide the Town Council or its authorized representative a complete set of construction plans signed and sealed by a professional engineer licensed in the state.

(2) The requirements for construction plan preparation and submittal are as outlined in the development guide.

(3) The Town Council or its authorized representative shall review the detailed construction plans for compliance with the town's requirements and conformance with the conceptual plan approval. The developer/owner shall revise construction drawings as required by the Town Council or its authorized representative.

(4) Prior to obtaining final written approval of the detailed construction drawings, the developer/owner shall pay all required review fees as outlined in § 150.055 and/or utility fees as may be outlined in the utility service agreement.

(5) Once all technical and monetary issues are satisfied, the town shall give written approval of the final detailed construction plans.

(6) Plan approval is conditioned upon receiving County Drainage Board approval for development outside of the town limits. The town reserves the right to review the drainage and storm sewer plan and require changes as necessary to fit within the town's storm sewer system. It is the intent of the town to coordinate drainage plan review with the County Engineer and County Surveyor.
(Ord. 99-6, passed 6-7-1999)

§ 150.049 CONSTRUCTION AND INSPECTION PROCEDURES.

(A) Upon receipt of final construction plan approval the developer/owner shall schedule a pre-construction conference with the town utility personnel. The purpose of the conference is to discuss

timetables for installation of utilities, start dates for IDEM permit(s), coordination requirements with any other agencies and utilities and the like.

(B) The contractor shall provide the town with the names and telephone numbers of contact person(s) and emergency contact person(s) for applicable phases of construction.

(C) The town's authorized representative shall perform periodic inspections of the construction site and discuss any concerns with the contact person or his or her on-site representative.

(D) All testing and inspection procedures are to be as outlined in the *Typical Construction Guidelines and Details*.

(E) The contractor shall notify the town utility personnel for inspection when each section of watermain is ready for testing. It is to the contractor's benefit to have the construction approved prior to paving.

(F) After sanitary and storm drainage systems are installed, the contractor shall notify the town utility personnel. Inspection of sewers shall begin within one week after notification of the utility personnel. However, air and mandrel tests will not be performed before 45 days have elapsed from the date of completion of backfill of the system (to be verified by the utility personnel). It is to the contractor's benefit to notify the utility personnel of backfill completion and to have the construction approved prior to paving.

(G) Pavement and stormwater drainage facilities shall be inspected in accordance with the practices and procedure of the County Engineer and County Surveyor, unless more stringent requirements are established in the town's *Typical Construction Guidelines and Details*.

(H) The town utility personnel or his or her authorized representative shall notify the contractor in writing of any deficiencies identified during inspection. The contractor shall correct all deficiencies and shall notify the utility personnel for a subsequent reinspection of the work.

(I) All fees for inspection shall be borne by the town. Inspection fees are outlined in § 150.055.

(J) Detailed construction inspection procedures and checklists are provided in the development guide.

(K) A final inspection shall be performed by the utility personnel or his or her authorized representative.

(Ord. 99-6, passed 6-7-1999)

§ 150.050 EASEMENT REQUIREMENTS.

(A) All sewers and watermain shall be located within easements outside of the public road right-of-way. The easement shall be of adequate size and location for access, maintenance and/or replacement of the utility. All easements shall be dedicated to the town. The town shall approve easement location and size as part of the plan approval process.

(B) All storm drainage easement requirements of the county shall be met.

(Ord. 99-6, passed 6-7-1999)

§ 150.051 TIME LIMITS FOR CONSTRUCTION PLAN APPROVAL.

Construction plan approval shall be withdrawn in writing by the town if construction has not commenced within 365 days of obtaining approval. The town, at its discretion and after the receipt of written request of the developer/owner may grant additional extensions of the plan approval in six-month increments. Should the plan approval expire, the developer will be required to re-submit the construction plans for approval.

(Ord. 99-6, passed 6-7-1999)

§ 150.052 CHANGE IN PLANS.

(A) The developer/owner shall be required to discuss and submit any plan changes to the town for its review and approval prior to making any changes to the approved construction plans.

(B) All plan changes shall be reflected on the approved revised plans and the as-built drawings.

(Ord. 99-6, passed 6-7-1999)

§ 150.053 AS-BUILT CERTIFICATIONS.

(A) The developer/owner shall submit three sets of complete as-built plans to the town prior to requesting a final inspection.

(B) An as-built checklist is provided in the development guide.

(C) A certification statement signed by the design engineer shall appear on the as-built plans stating that the completed work substantially complies with the final approved plans.

(Ord. 99-6, passed 6-7-1999)

§ 150.054 TOWN ACCEPTANCE OF UTILITIES.

(A) When all work is completed and as-built plans are approved by the town personnel, the developer/owner will be notified that a request can be made for town acceptance of utilities.

(B) The developer/owner submits to the Town Council the following information:

(1) Engineer's as-built certification that the work was completed substantially in accordance with the approved plans;

(2) Three-year letter of credit or maintenance bond for 10% of the amount of work completed and requested for acceptance; and

(3) Request for town acceptance of the completed public improvements.

(C) Upon acceptance of the public improvements by the Town Council, the developer/owner, lot owner or contractor may apply for sewer and water permits.

(D) The town will not accept utilities until all fees have been paid.
(Ord. 99-6, passed 6-7-1999)

§ 150.055 SUBMITTAL, REVIEW AND INSPECTION FEES.

The town requires the following fees be paid by the owner/developer.

(A) Development guide is \$50.

(B) Preliminary/conceptual submittal fee is \$2,000. This fee will be used to pay for the review of the submittal. If the preliminary/conceptual plan is approved by the town and the owner/developer proceeds with the project, the unused balance of the fee will be returned to the owner/developer. Should preliminary/conceptual review exceed \$2,000, the owner/developer will be responsible for making up the difference between the \$2,000 submitted and the actual review costs prior to approval of the preliminary/conceptual plan.

(C) Final construction plan review fee is \$3,000. If the final review fee is less than \$3,000, the unused balance will be returned to the owner/developer. Should final plan review fees exceed \$3,000, the owner/developer will be responsible for making up the difference between the \$3,000 submitted and the actual review costs prior to the final approval of the construction plans.

(D) All costs of the inspection shall be the responsibility of the owner/developer. Any costs for re-inspection due to deficiencies and inadequacies in the construction will also be the responsibility of the owner/developer. Inspection costs will be billed to the

owner/developer monthly and shall be due within 30 days of receipt of the invoice. The town staff or an independent entity selected by the town will conduct the inspection requirements.(Ord. 99-6, passed 6-7-1999; Ord. 2014-5, passed 5-5-2014)

§ 150.056 CONFLICTING PROVISIONS.

(A) The provisions of this subchapter shall be deemed as additional requirements to minimum standards required by other ordinances of the town and/or the county.

(B) In the case of conflicting requirements, the most restrictive shall apply.
(Ord. 99-6, passed 6-7-1999)

UNSAFE BUILDINGS

§ 150.070 AUTHORITY.

Under the provisions of I.C. 36-7-9, there is hereby established the town unsafe building subchapter.
(Prior Code, § 81.01) (Ord. 95-15, passed 12-28-1995)

§ 150.071 STATE LAW ADOPTED BY REFERENCE.

(A) I.C. 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference in the town unsafe building subchapter. All proceedings within the incorporated areas of the town for the inspection, repair and removal of unsafe buildings shall be governed by the applicable state law and the provisions of this subchapter.

(B) In the event the provisions of this subchapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(Prior Code, § 81.01) (Ord. 95-15, passed 12-28-1995)

§ 150.072 NUISANCE DECLARED.

All buildings or portions thereof within the incorporated areas of the town which are determined after inspection by the Building Commissioner of the county to be unsafe as defined in this subchapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

(Prior Code, § 81.02) (Ord. 95-15, passed 12-28-1995)

§ 150.073 COUNTY BUILDING COMMISSIONER.

The County Building Commissioner, as chief administrative office, shall be authorized to administer and to proceed under the provisions of the applicable state law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(Prior Code, § 81.03) (Ord. 95-15, passed 12-28-1995)

§ 150.074 CONFLICTING PROVISIONS.

Wherever in the building regulations of the state, county or the town unsafe building subchapter, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the county, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no provisions shall be construed as giving any officer discretionary powers as to what

regulations or standards shall be, power to require conditions not prescribed by ordinance or to enforce ordinance provisions in an arbitrary or discretionary manner.

(Ord. 95-15, passed 12-28-1995)

§ 150.075 DEFINITIONS.

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

SUBSTANTIAL PROPERTY INTEREST. As set forth in I.C. 36-7-9-2 and is hereby incorporated by reference herein as if copied in full.

UNSAFE BUILDING.

(1) The description of an unsafe building contained in I.C. 36-7-9-4 hereby supplemented to provide minimum standards for building condition or maintenance in the town by adding the following definition.

(2) Any building or structure which has any or all of the conditions or defects hereinafter described, provided that the conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered:

(a) Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(c) 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 new buildings of similar structure, purpose or location;

(d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose and location;

(e) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, or purpose or location without exceeding the working stresses permitted for the buildings;

(g) Whenever any portion thereof has cracked, warped, buckled or settled to an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(h) Whenever the building or structure, or any portion thereof, because of:

1. Dilapidation, deterioration or decay;
2. Faulty construction;
3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;
4. The deterioration, decay or inadequacy of its foundation; or
5. Any other cause, is likely to partially or completely collapse.

(i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(j) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(k) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of this supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(l) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become:

1. An attractive nuisance to children; or
2. Freely accessible to person or committing unlawful acts.

(m) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the town, or of any law or ordinance of the state or the county or the Unified Zoning Ordinance of the town relating to the condition, location or structure of building;

(n) Whenever any building or structure which, whether or not enacted in accordance with all applicable laws and ordinances has in any nonsupporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the:

1. Strength;

2. Fire-resisting qualities or characteristics; or

3. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(o) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Office of the county (health official) to be unsanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease;

(p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the appropriate fire official and/or State Fire Marshal to be a fire hazard;

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute the building or portion thereof an attractive nuisance or hazard to the public; and

(r) Notwithstanding the foregoing, a building may be inventoried for a period of 12 months upon permit issued by the Building Commissioner after submission by applicant of a plan for securing the property, as well, as a plan for the rehabilitation and/or removal of the property.

(Prior Code, §§ 81.04, 81.05) (Ord. 95-15, passed 12-28-1995)

§ 150.076 STANDARDS.

All work for the reconstruction, repair or demolition of buildings and other structures shall be

performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission, shall be considered standard and acceptable practice for all matters covered by this subchapter or orders issued pursuant to this subchapter by the Building Commissioner of the county.

(Prior Code, § 81.06) (Ord. 95-15, passed 12-28-1995)

§ 150.077 UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the town in accordance with the provisions of I.C. 36-7-9-14.

(Prior Code, § 81.07) (Ord. 95-15, passed 12-28-1995)

§ 150.999 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Building code.* If any person, firm or corporation shall violate any of the provisions of §§ 150.001 through 150.019, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, with the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of §§ 150.001 through 150.019, for each violation, failure or refusal, the person, firm or corporation shall be fined in the sum of \$50. Each day of the unlawful activity as is prohibited by the first sentence of this division shall constitute a separate offense.

(Prior Code, § 80.19)

(C) *Unsafe buildings.*

(1) No person, firm or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of the Unified Zoning Ordinance or Unified Subdivision Ordinance of the town or any of the provisions of §§ 150.065 through 150.072 or any order issued by the Building Commissioner. Any person violating the provisions of §§ 150.065 through 150.072 or I.C. 36-7-9-28 shall commit a class C infraction for each day the violation continues.

(2) Any and all costs incurred to enforce or implement the provisions of §§ 150.065 through 150.072 shall constitute a lien on the subject real estate in favor of the town.

(Prior Code, §§ 81.08, 81.09)

(Ord. 95-15, passed 12-28-1995; Ord. 95-16, passed 12-28-1995)

CHAPTER 151: SUBDIVISION REGULATIONS

Section

151.01 Adoption by reference

§ 151.01 ADOPTION BY REFERENCE.

The Unified Subdivision Ordinance of Tippecanoe County, copies of which are on file in the office of the Town Clerk-Treasurer, is adopted and incorporated by the town as part of this code of ordinances as fully as if set out at length herein.

(Ord. 75-3, passed - -; Ord. 77-7, passed - -1977; Ord. 82-9, passed 9-13-1982; Ord. 84-4, passed 10-1-1984; Ord. 86-9, passed - -1986; Ord. 87-4, passed 2-2-1987; Ord. 88-4, passed 7-11-1988; Ord. 88-6, passed 7-11-1988; Ord. 9-3, passed 10-7-1991; Ord. 96-5, passed 6-3-1996; Ord. 97-9, passed 9-2-1997; Ord. 98-2, passed 3-2-1998; Ord. 00-02, passed 2-7-2000; Ord. 02-05, passed 7-1-2002; Ord. 02-06, passed 7-1-2002; Ord. 03-02, passed 2-3-2003; Ord. 08-2009, passed 9-8-2009; Ord. 2013-1, passed 1-7-2013; Ord. 2013-3, passed 1-7-2013; Ord. 2014-2, passed 2-3-2014; Ord. 2014-7, passed 5-5-2014)

CHAPTER 152: ZONING REGULATIONS

Section

152.01 Adoption by reference

§ 152.01 ADOPTION BY REFERENCE.

The Unified Zoning Ordinance of Tippecanoe County, copies of which are on file in the office of the Town Clerk-Treasurer, is adopted and incorporated by the town as part of this code of ordinances as fully as if set out at length herein.

(Ord. 80-13, passed - -; Ord. 89-1, passed - -; Ord. 89-3, passed - -; Ord. 98-15, passed - -; Ord. 98-16, passed - -; Ord. 99-4, passed - -; Ord. 74-5, passed 9-9-1974; Ord. 74-6, passed 9-9-1974; Ord. 75-4, passed 6-2-1975; Ord. 75-6, passed 10-6-1975; Ord. 77-2, passed 3-7-1977; Ord. 77-9, passed 12-12-1977; Ord. 78-3, passed 5-1-1978; Ord. 78-12, passed 9-11-1978; Ord. 78-13, passed 11-6-1978; Ord. 79-6, passed 6-4-1979; Ord. 79-8, passed 9-10-1979; Ord. 80-4, passed 7-1-1980; Ord. 80-5, passed 8-4-1980; Ord. 81-5, passed 6-1-1981; Ord. 80-16, passed 1-5-1982; Ord. 82-3, passed 3-1-1982; Ord. 82-6, passed 6-6-1982; Ord. 82-7, passed 8-2-1982; Ord. 82-11, passed 11-1-1982; Ord. 83-3, passed 7-11-1983; Ord. 83-10, passed 11-7-1983; Ord. 84-1, passed 9-10-1984; Ord. 85-2, passed 3-4-1985; Ord. 85-3, passed 3-4-1985; Ord. 85-11, passed 1-6-1986; Ord. 86-1, passed 3-3-1986; Ord. 86-2, passed 6-2-1986; Ord. 86-5, passed 11-3-1986; Ord. 86-6, passed 11-3-1986; Ord. 86-7, passed 11-3-1986; Ord. 86-8, passed 12-1-1986; Ord. 87-8, passed 8-3-1987; Ord. 88-1, passed 4-4-1988; Ord. 88-2, passed 5-2-1988; Ord. 88-3, passed 6-6-1988; Ord. 88-5, passed 6-6-1988; Ord. 91-2, passed 10-7-1991; Ord. 92-4, passed 9-14-1992; Ord. 96-10, passed 11-4-1996; Ord. 98-1, passed 3-2-1998; Ord. 98-4, passed 4-6-1998; Ord. 98-5, passed 4-6-1998; Ord. 98-6, passed 7-9-1998; Ord. 98-9, passed 9-8-1998;

Ord. 98-10, passed 9-8-1998; Ord. 99-2, passed 3-1-1999; Ord. 99-3, passed 3-1-1999; Ord. 99-5, passed 6-7-1999; Ord. 99-7, passed 7-12-1999; Ord. 99-11, passed 10-4-1999; Ord. 00-01, passed 1-10-2000; Ord. 00-05, passed 4-3-2000; Ord. 00-08, passed 6-5-2000; Ord. 00-09, passed 8-7-2000; Ord. 00-12, passed 9-18-2000; Ord. 01-01, passed 2-5-2001; Ord. 01-05, passed 7-2-2001; Ord. 01-10, passed 9-10-2001; Ord. 01-12, passed 10-1-2001; Ord. 01-07, passed 11-5-2001; Ord. 01-14, passed 12-3-2001; Ord. 02-01, passed 2-4-2002; Ord. 02-02, passed 3-4-2002; Ord. 02-04, passed 6-3-2002; Ord. 02-07, passed 7-1-2002; Ord. 02-08, passed 7-1-2002; Ord. 02-09, passed 9-9-2002; Ord. 03-01, passed 2-3-2003; Ord. 03-03, passed 5-5-2003; Ord. 03-04, passed 6-2-2003; Ord. 03-05, passed 7-7-2003; Ord. 03-07, passed 8-4-2003; Ord. 03-08, passed 8-4-2003; Ord. 03-10, passed 9-8-2003; Ord. 04-02, passed 2-2-2004; Ord. 04-03, passed 5-3-2004; Ord. 04-04, passed 5-3-2004; Ord. 04-07, passed 10-15-2004; Ord. 04-08, passed 11-1-2004; Ord. 05-01, passed 2-7-2005; Ord. 06-03, passed 2-6-2006; Ord. 06-04, passed 3-6-2006; Ord. 06-07, passed 8-7-2006; Ord. 06-09, passed 10-2-2006; Ord. 09-03, passed 7-6-2009; Ord. 06-2009, passed 9-8-2009; Ord. 07-2009, passed 9-8-2009; Ord. 11-2009, passed 12-7-2009; Ord. 2010-07, passed - -2010; Ord. 2010-08, passed - -2010; Ord. 10-02, passed, 4-5-2010; Ord. 10-16, passed 10-11-2010; Ord. 10-17, passed 10-11-2010; Ord. 10-18, passed 10-11-2010; Ord. 2011-01, passed 1-3-2011; Ord. 2011-03, passed 2-7-2011; Ord. 2011-8, passed 7-11-2011; Ord. 2012-10, passed 11-5-2012; Ord. 2013-4, passed 4-1-2013; Ord. 2013-8, passed 7-8-2013; Ord. 2013-12, passed 10-7-2013; Ord. 2013-16, passed 12-2-2013; Ord. 2014-1, passed 1-13-14; Ord. 2014-6, passed 5-5-2014; Ord. 2014-8, passed 6-2-2014; Ord. 2014-10, passed 7-7-2014; Ord. 2014-11, passed 9-8-2014)

TABLE OF SPECIAL ORDINANCES

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- I. ANNEXATIONS**
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TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-1	2-6-1978	Annexing Carr, Livesay and Fields and Amoco Oil Company properties to the town.
96-9	10-7-1996	Annexing a part of the northeast quarter of Section 9, Township 22 North, Range 3 West, Key number 118-00900-0197.
97-1	1-6-1997	Annexing a part of the northeast quarter of Section 9, Township 22 North, Range 3 West, Key number 118-00900-0280.
00-10	1-8-2001	Annexing approximately 6.606 acres of certain real estate located along Dayton Road.

TABLE II: AGREEMENTS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
73-3	4-2-1973	Approving an interlocal cooperation agreement and authorizing the president to execute the agreement.
74-3	7-1-1974	Approving agreement for participation in cooperative operation of Region IV Development Commission.
78-4	5-1-1978	Authorizing, ratifying and confirming an agreement between the City of Lafayette and the town for wastewater treatment.
85-10	11-4-1985	Ratifying an interlocal agreement with the County Clerk and prosecuting attorney which provides for enforcement of the town traffic ordinance by the county prosecuting attorney and collection of fines by the County Clerk.
95-2	2-13-1995	Authorizing, ratifying and confirming an agreement between the City of Lafayette and the town for the supply of water.

TABLE III: BONDS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-5	5-1-1978	Concerning the construction and operation by the town of sewage works, the issuance of revenue bonds to apply on the cost, the collection, segregation and distribution of the revenues of the works and the safeguarding of interests of the holders of the bonds.
88-8	10-3-1988	Amending Ordinance 78-5.
98-7	7-9-1998	Authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of constructing the municipal waterworks of the town, providing for the safeguarding of interests of the owners of the bonds and other matters connected therewith, including the issuance of notes in anticipation of bonds.
98-13	10-23-1998	Amending and restating the ordinance of the town authorizing the issuance of waterworks revenue bonds.
99-8	7-12-1999	Authorizing the issuance and sale of bonds for the purpose of providing funds to be used for the renovation of the Town Hall.
2013-7	6-24-2013	Authorizing the town's refunding of its waterworks revenue bonds of 1998 through the issuance of waterworks refunding bonds, and the collection, segregation and distribution of revenues of the waterworks.

TABLE IV: CONTRACTS FOR PURCHASE OF REAL ESTATE

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
77-8	11-7-1977	Approving a contract for purchase of real estate between Wilma Baker and the Utility Service Board of the town.
77-10	12-12-1977	Approving a contract for purchase of real estate between Wilma Baker and the Utility Service Board of the town and repealing Ordinance 77-8.

TABLE V: FRANCHISES

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
73-4	- -	Approving a street lighting contract with the Public Service Company of Indiana, Inc.
83-4	- -	Approving a street lighting contract with the Public Service Company of Indiana, Inc.
71-3	5-3-1971	Approving an electric franchise, grant and contract with the Public Service Company of Indiana, Inc.
72-6	8-7-1972	Approving a contract with Indiana Gas Company, Inc. for a natural gas franchise.
80-11	8-18-1980	Approving and authorizing a contract for electric energy for power and light for operating a municipal sewage disposal system with the Public Service Company of Indiana, Inc.
81-1	2-2-1981	Granting a franchise to Greater Lafayette TV Cable Co., Inc. for cable television distribution and approving a contract.
93-8	- -1993	Providing for the regulation of basic service tier rates and related equipment, installation and service charges of any cable television system operating in the town.
94-9	12-28-1994	Granting a franchise to Times Mirror Cable Television for cable television distribution and approving a contract.

TABLE VI: VACATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
92-1	5-4-1992	Vacating a public alley in Bush's Marquis De Lafayette Subdivision and Bush's First Addition.
93-1	3-1-1993	Vacating a portion of Ohio Street and Pennsylvania Street.
95-6	6-5-1995	Vacating an easement of 1ten feet.
95-7	6-5-1995	Vacating an easement of 15 feet.
95-12	12-4-1995	Vacating an alley between Lots 9 and 10 in Bush's Second Addition.
96-3	4-1-1996	Vacating the street known as Railroad Street between Lots 10 and 11 in Bush's Second Addition from South Street to the railroad right-of-way.
06-06	7-10-2006	Vacating an alley running in an east-west direction bounded by a part of Outlots 4 and 5 in Horam's Addition of Outlots.
05-2009	8-3-2009	Vacating a portion of an alley adjoining David H. Gregory's Third Addition.

TABLE VII: ZONING

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
71-5	6-7-1971	Rezoning the real estate 43 feet off the west side of Lot 54 and Lots 55 and 56 in Horam's Addition as GB.
71-8	11-1-1971	Rezoning the following real estate as GB: 1. Bereas Addition, Lots 7, 12 and 16; 2. Bartmes Addition, Lots 3, 4, 5, 6 and 7; 3. Gregory's Second Addition, Lots 1, 3 and 4; 4. Gregory's First Addition, Lots 1, 4, 5, 6, 8 and 9; 5. Horains Addition, Lots 1, 27 and 29; 6. Bush's Second Addition, Lots 1 and 2; 7. Original plat of Marquie, not part of Dayton, Lots 6 and 12; 8. Fancher's Acres, Lot 5; 9. Bush's First Addition, Lots 1, 2 and 14; 10. Bush's Second Addition, Lots 3 and 4; and 11. That part of Section 9, Township 22 North, Range 3 West located on the south side of Highway 38 and being now occupied by the Masonic Lodge.
72-2	6-5-1972	Rezoning Lots 13 and 14 in Bush's Second Addition as R-2.
72-10	12-4-1972	Rezoning a part of the west half of the southeast quarter of Section 5, Township 22 North, Range 3 West as AB.
76-2	6-7-1976	Rezoning a part of the east half of the northeast quarter of Section 8, Township 22 North, Range 3 West from A to R-3.
77-6	10-3-1977	Rezoning the following real estate as R-1: part of the northwest quarter of Section 9, Township 22 North, Range 3 West.

Dayton - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
78-8	7-10-1978	Rezoning a part of the east half of the southwest quarter of Section 5, Township 22 North, Range 3 West from R-1 to AB.
78-9	- - 1978	Rezoning a part of the east half of the southwest quarter of Section 5, Township 22 North, Range 3 West from R-1 to AB.
78-15	11-6-1978	Rezoning a part of Lots 1 and 2 in David H. Gregory's Second Addition from LBS to GB.
80-2	4-7-1980	Rezoning Lot 2 in David H. Gregory's Second Addition from LBS to GB.
80-14	11-3-1980	Rezoning a part of the northeast quarter of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 4.68 acres more or less, from R-1 to R-2.
80-15	11-3-1980	Rezoning a part of the northeast quarter of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 9.88 acres more or less, from R-1 to R-1B.
81-11	11-16-1981	Rezoning a part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 2.777 acres, from A to AB.
87-2	2-2-1987	Rezoning from R-3 to R-1 and R-1B: 1. All R-3 lands lying north of State Road 38; and 2. All R-3 lands lying south of State Road 38 except a part of the east half of the northeast quarter of Section 8, Township 22 North, Range 3 West.
87-3	2-2-1987	Rezoning a part of the southwest quarter of Section 5, Township 22 North, Range 3 West of the Second Principal Meridian, containing 66.31 acres, to I.
87-6	7-13-1987	Rezoning a part of the west half of the northeast quarter of Section 8, Township 22 North, Range 3 West, containing 1.613 acres, from R-1 and R-1B to GB.
88-9	12-5-1988	Rezoning Lot 6 in Bera's Addition as platted upon part of the east half of the southeast quarter of Section 5, Township 22 North, Range 3 West from R-1 to LB.

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
93-2	4-5-1993	Rezoning part of the southeast quarter of Section 4, Township 22 North, Range 3 West, containing 50.3 acres more or less, from R-1 to R-1A.
93-7	10-4-1993	Rezoning part of the southeast quarter of Section 5 and part of the southwest quarter of Section 4, Township 22 North, Range 3 West, containing 37.83 acres more or less, from R-1 to R-1A.
95-9	- -1995	Rezoning Eugene G. and Joyce E. Blosser real estate from R-1 to AB.
95-11	11-6-1995	Rezoning Eugene G. and Joyce E. Blosser real estate from R-1 to AB.
96-6	8-5-1996	Rezoning the following real estate from R-1 to LB: 1. The northern 1,650 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 924 feet; and 2. The northern 2,131.37 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 1,405.37 feet.
96-8	9-3-1996	Rezoning the western 300 feet of a part of the Eugene G. and Joyce E. Blosser real estate as recorded in Deed Record 73, Page 691, being a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, except the northern most 924 feet from R-1 to GB.
97-2	3-3-1997	Rezoning 710 Walnut from LBS to GB.
01-04	7-2-2001	Rezoning part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 4,900 feet more or less, from GB to I-3.
01-15	12-3-2001	Rezoning part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 4.377 acres more or less, from R-1 and NB to GB.

Dayton - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
02-03	6-3-2002	Rezoning from GB to I-3: 1. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 2.00 acres more or less; 2. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 4.377 acres more or less; and 3. A part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 3.00 acres more or less.
03-09	8-4-2003	Rezoning part of the northwest quarter of Section 9, Township 22 North, Range 3 West, containing 10.000 acres more or less, from R-1 to NB.
05-12	11-7-2005	Rezoning Lots 59—76 Prestwick Manor, Section One, from R-2 to PDRS.
06-08	10-2-2006	Rezoning part of the northwest quarter of Section 9, Township 22 North, Range 3 West, containing 2.26 acres more or less, from R-1 to NB.
2012-4	5-7-2012	Rezoning part of the northwest quarter of Section 8, Township 22 North, Range 3 West, containing 4,900 square feet more or less, from I3 to GB.
2013-6	6-3-2013	Rezoning 773 Walnut Street from R1 to NB.
2013-9	10-7-13	Rezoning Lot 4 in David H. Gregory's First Addition from NBU to R1U.
2014-3	4-7-2014	Rezoning part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 11.010 acres more or less, from R1 and NB to I3.
2015-1	3-19-2015	Rezoning a part of the Eugene G. and Joyce E. Blosser real estate located in a part of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 11.550 acres, more or less, from HB, NB, R1 to I3.
2015-6	6-1-2015	Rezoning part of the east half of the southeast quarter of Section 5, Township 22 North, Range 3 West, containing 2.017 acres, more or less, from R1 to I3.

PARALLEL REFERENCES

References to Indiana Code

References to Prior Code

References to Ordinances

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1-1-1-7	10.12
1-1-1-8	10.06
1-1-4-5	10.05
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5-2-1-9	32.022
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5-11-10-1.6	34.04
5-11-10-2	34.03
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9-13-2-196(a)	70.01
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9-18-2.5	70.01
9-18-18	75.04
9-18-22	75.04
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13-24	31.072
13-25-4	31.072
13-25-5	31.072
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22-9.5-2-4	95.02
22-9.5-2-8	95.02
22-9.5-2-9	95.02
22-9.5-2-10	95.02
22-9.5-2-10(b)	95.02
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22-13-2-7	150.017
22-15-4	150.004
33-36-2-1	35.01; 35.02

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